The American Political Science Review

Vol. VII FEBRUARY 1913 No. 1

A GOVERNMENT OF MEN

PRESIDENTIAL ADDRESS, THE NINTH ANNUAL MEETING OF THE AMERICAN POLITICAL SCIENCE ASSOCIATION, DECEMBER 28, 1912

ALBERT BUSHNELL HART

"In the government of this commonwealth, the legislative department shall never exercise the executive and judicial powers, or either of them: the executive shall never exercise the legislative and judicial powers, or either of them: the judicial shall never exercise the legislative and executive powers, or either of them: to the end, it may be a government of laws, and not of men."

So runs the thirtieth article of the constitution adopted by the people of Massachusetts in their town meetings in the year 1780; and still a part of the fundamental law of this Commonwealth. The fine and sonorous phrase states two important principles: that in every proper government there should be three balanced departments; and that a government of laws must control not only the people but those charged with government—that is, that the rule is stronger than the rulers.

This principle of the supremacy of law over persons goes far back—the Old Testament is full of it: "Hearken, O Israel unto the statutes and unto the judgments which I teach you . . . . Ye shall not add unto the word which I command you, neither shall ye diminish from it." Plato said in his treatise on laws, "As for us, the principle of immutability dwells in us . . . . Nor are laws right which are passed for particular classes and not for the good of the whole state. States which have such laws are not polities but parties." Harrington more than a century before the Revolution wrote that a government in which

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the laws "are made according to the interest of a man, or a few families, may be said to be the empire of men and not of laws."

Nor is the Massachusetts constitution the only analysis of the political philosophy of the English Commonwealth and the American Revolution. John Adams, who drafted the constitution, though not the particular clause just quoted, said of his work: "It is Locke, Sidney, and Rousseau, and De Mably reduced to practice." So the elder Pitt said, "where law ends, tyranny begins." So Hooker in his *Ecclesiastical Polity* "Of law there can be no less acknowledged, than that her seat is in the bosom of God, her voice the harmony of the world; all things in heaven and earth do her homage; the very least as feeling her care, and the greatest are not exempted from her power."

To question the authority of the Massachusetts state constitution in this place is daring, particularly if Locke and Rousseau are the right and left guards of its sturdy central thought. However, it is the province of the American Political Science Association to politically-scientifically inquire into any field or function of human government. The Massachusetts principle of 1780 is sound, if on investigation it can be shown that it adapts itself to the progress of time; that it is sound not only for 1780 but for 1912. Today you are in the hands of an ephemeral president, who asserts the "government of men" to be superior to the "government of laws;"and entertains no appeal from his decision. For the age of dissent and questionings is not over. Locke and Rousseau disputed the political doctrines of their time; and the American Revolution was originally only the announcement of a new governmental principle for the British Empire. Edmund Burke in 1777 disagreed with the government of laws:

"There are people who . . . . . have disputed whether liberty be a positive or a negative idea; whether it does not consist in being governed by laws without considering what are the laws, or who are the makers." As Burke hints, the touchstone is the ability of one or another type of government to ascertain and apply the will of the people for the benefit of the people; or in the words of Robert Hall: "Government is the creature of the people, and that which they have created they surely have a right to examine."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

SEPARATION OF POWERS

The doctrine of the separation of powers is based upon a distrust of public officials, which is typical of the post-Revolutionary period. The doctrine is contrary to the practice of Europe in the eighteenth century, when absolutism was the rule on the Continent. It has never prevailed in England, although Montesquieu in 1730 neatly described the supposed coordinate anatomy of the British government: unfortunately his results do not agree with the government as it was. The colonial governments did practice and dislike a separation between the executive and the legislative power—a distinction which they thought practical when they were able to choose their own executive.

The doctrine was carried into most of the other constitutions of the Revolutionary period; and upon it, after a brief experience of the parliamentary system of the old congress, the federal government was organized. Every State in the Union thereafter, went the same road, although any of them might, by amending its own constitution, set up the Canadian type of responsible government. It has spread into city governments, which have provided city councils on the one side, and dislocated mayors on the other; and probably would have added a local judiciary had it been allowed.

To the present age such long use seems a reason for replacing a thing with something new. Malvolio in bonds announced his opinion that, "the soul of our grandam might haply inhabit a bird." Certainly this Association does not object to the soul of an outworn government transmigrating into a livelier medium. There are no precedents in government which bind this worshipful company. We ask only has use approved the separation of powers? Far from it! At the very moment when it was set forth in stately phrase by the Massachusetts convention, it was thrown out of gear by the rest of the work of that convention, which gave to the governor and council a power of judicial pardons; 96 times in the year 1912 has the executive of Massachusetts thus recalled a judicial decision, and confused the separation of powers! By the same instrument the judiciary received two visible legislative powers: first, the right to submit opinions

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

on pending bills; second, the unwritten but implied power to set aside statutes as unconstitutional. The legislature, on its side, at that time was assured the power of choosing the heads of executive departments, and thereby encroaching on a sister department.

In the federal constitution of 1787 there are similar inconsistencies: the President shares in legislation by his veto power; and in judicial authority by the decisions of what are substantially administrative courts; while the standing committees of congress have possessed themselves of a considerable share of the executive business of the nation. Throughout the Union legislatures take an active part in the work of executive boards and departments, chiefly through their control over appropriations; and more and more all the executives claim responsibility for legislation. If the separation of powers is essential to good government, then we are without good government or the hope of it; for the drift throughout the country is clearly toward merging, or at least correlating, the three departments. Most American counties have ignored the separation between executive and legislative power; city commissions destroy it. The close connection between the judiciary and the legislative is sharply brought before us by the public uneasiness at the influence and authority of judges over laws duly placed upon the statute book. If a government of laws cannot be had without the traditional checks and balances, we might as well pass on to a government of men forthwith. The separation of powers breaks down because it has proved to be an artificial barrier against vigor in the conduct of the affairs of the American people.

GOVERNMENT OF LAWS

Is there a government of laws which can persistently give us both orderly and continuous government? Perhaps we are misled by the term. We know what laws of nature are: simply deductions and generalizations from observed facts. The law of gravity, the law of atomic weights, the law of natural selection—these are not arbitrary edicts made by the Almighty, but

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

simply a condensed statement of the truth of things. Similar laws may with less confidence be laid down on human relations: thus Gresham's law on circulating media; or the law of diminishing returns, are nothing more than statements that in human experience things go in a particular way; and under like circumstances will presumably continue to go that way.

Contrast with these notions our conception of statute law. What of the Sherman law, or the Payne-Aldrich law? Are they more than temporary rules of action, subject to change with every session of congress? Between law in the strict sense and law in the sense of the Massachusetts constitution, there is all the difference between a stream flowing through its natural bed; and water deflected artificially into a flume, which may be directed whither you will; or by a blow of an axe may be put out of operation altogether.

Just what did the fathers mean by "Government of Laws?" Very convenient is the idea of a realm of laws promulgated by an irresistible power from above. Our Puritan forefathers looked to the law of God as expounded by Moses as their guide and therefore the Connecticut statute of 1662 says, "If any person rise up by False Witness wittingly and of purpose to take away any man's life, he or she shall be put to death. Deut. 19. 16, 18, 19." But our statute books are full of enactments which cannot be found in Deuteronomy.

If the Mosaic Law is insufficient for the needs of this age, the enactments of human sovereigns are no more complete. What has become of the haughty "Law of the Medes and Persians that altereth not?" Who now obeys the capitulations of Charlemagne? Who accepts the decrees of Napoleon, Emperor of the French? Who practices the code of Hammurabi? Vestiges of ancient enactments we have, principles have been handed down; but the law of the written law is that it is never final. Law is no longer law unless it corresponds to the changes of the times. Who was the graceless youth who was forbidden entrance to Oxford because when asked to sign the Thirty-nine Articles he irreverently answered, "Forty of them, if you like!" Yet since his time the fortieth article has been added—the unchangeable

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

law has yielded before the non-conformist and the foreigner—you may enter Oxford now withour any Articles at all.

The Massachusetts "Government of Laws" undoubtedly intended to include "natural law," a mass of precepts collected out of the experiences of the ages: partly a restatement of the severity of the Old Testament and the mercy of the New Testament; partly the accumulation of customs beginning no one knows where; partly the political literature of mankind, passing from land to land; partly the collections and treatises of publicists; partly formal declarations, constitutions and statutes framed by bodies of men. The "law of nature," which is invoked as the guide and protector of men, is after all simply what men now living suppose was believed by ancestors long since dead.

A true law of nature must be a universal law, applying to all mankind in all ages; but the natural law of the framers of the Massachusetts constitution was a law applicable only to Christians, for it is permeated by Scripture; meant only for Europeans, for it takes no account of the legal principles of the Orient; still farther confined to men of the English race, for it abounds in maxims of the English judges. Yet it was dear to our fathers. It was Pope who wrote "The State of Nature was the Reign of God." It was Patrick Henry who said in the first Continental Congress, "we are in a state of nature, Sir." "All America is in one mass." Our fathers appealed to the law of nature to help them out of their difficulties; and forthwith proceeded to amend it.

The Massachusetts convention in its phrase, "Government of Laws" could not have overlooked the common law of England which was applied in all the colonies. The new states did not foresee our present difficulties, arising from the application by the courts of the common law as superior to state statutes, and even modifying the meaning of state constitutions. The fathers looked upon the common law as a servant and not a master; and always recognized the power of a state by statute to alter it; while one commonwealth of them forbade its use as a rule by the State courts.

They meant also by "Government of Laws" an orderly system, clearly stated, so that people might know beforehand what was

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the law which applied to them. There was to be no squabbling between litigants about the tribunal to which they should go; the rules of the courts were to be developed through previous contests and opinions; decisions once made were to be accepted as a settlement of the dispute.

The "Government of Laws" was intended to cover property rights, though it is a preposterous slander to say as Simons says of the federal constitution in his *Social Forces in American History*, "The organic law of this nation was formulated in secret session by a body called into existence through a conspiratory trick, and was forced upon a disfranchised people by means of a dishonest apportionment in order that the interests of a small body of wealthy rulers might be served." Still, property was in the minds of all the constitution makers of that period. John Adams advocated a senate in which "The rich and the well-born" might have their just influence. It was clearly the purpose of the Massachusetts convention that the government of laws should prevent a forcible transfer of property.

They meant also to protect minorities against the unforseen and unjust action of majorities. Property owners, like others in the minority, were to be sheltered by laws as to the methods of legislation and administration; and by the mass of common and statute law bearing upon property rights, a quantity destined to be enormously increased.

In 1780 the people of Massachusetts were already committed to the control of two different systems of law: that of their state and that of congress; and in 1788 they accepted a far stronger system of federal law, and thus admitted that there was a regime of law above law, and constitution above constitution; that a government of laws could be secured under a federal system.

The government of laws was expected to bring about results by automatic action. The fathers started their machine of government and put upon it a variety of devices intended to keep the legislative boiler, the executive cylinder and the judicial flywheel every moment in harmony with each other. They recognized the changefulness of law, but they intended to bring changes about in a preordained fashion. They tried to make a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

political machine which would work well with a poor fireman, a poor engineer, and a poor man at the shut-off valve.

So far as the government of laws means a rigid system acting slowly and heavily, alterable only with great difficulty, it does not today justify itself. Under it laws have been piled on laws in the effort to cover everything by statute and leave nothing to discretion. At the same time the sum of the laws is far below the necessities of the times. It is the nature of a rigid government of laws to feel that its technical organization is perfect; and therefore to oppose the methods of applying the popular will to the legislative machinery. The tendency of any political system is to perpetuate that system; and the government of laws needs somewhere reinforcement.

MEN IN GOVERNMENT

In the Massachusetts system, so honestly and painstakingly put together, lurks another great defect: it strives to minimize the human element in legislation and in government: "Government is not made," said Burke, "in virtue of natural rights . . . . government is a contrivance of human wisdom, to provide for human wants." Laws are not made to be symmetrical but to protect and elevate mankind. As Emerson puts it, "But the wise know that foolish legislation is a rope of sand, which perishes in the twisting; that the state must follow, and not lead the character and progress of the citizen; the strongest usurper is quickly got rid of; and they only who build of ideas build for eternity." No system of laws is adequate which does not take into account the immense number of the American people; the variety of their race origin, of their employments and their needs. No laws are adequate which do not change with the combinations of individuals, for whom they are made. Every statute book will be torn across if it does not recognize the eternal conflict between personal rights and property rights.

"Before man made us citizens, great nature made us men" wrote Lowell; and the foundation of American government is that laws are made by men and must partake of their qualities

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and defects. Laws are made by what men? By a special governing class; or the community as a whole; or individuals whom the community puts forward? Part of the theory of the framers of the Massachusetts constitution was that the government naturally would fall to a self-selected few; and this man's distrust of man, goes far back. Plato wrote, 2300 years ago, "Thus man had the wisdom necessary for the support of life, but political wisdom he had not; for that was in the keeping of Zeus."

It is a waste of time to go into that controversy, for Bacon long ago said that "We are much beholden to Machiavel and others, that write what men do and not what they ought to do." Like Burke we hold it "our duty in all soberness to conform our government to the character and circumstances of the several people who compose this mighty and sharply diversified mass." There is no accepted type of government within the United States except government by the people. In the last resort, government of laws is the government of men who have the right to make the laws; and none have the right to make the laws but ourselves.

In delegating that power we cast a great burden upon legislators; it is theirs to expand the constitutional principles into fruitful statutes; to choose among admitted means that measure which is wisest; to make the connection between the cold and barren law and warm, sentient human beings. The warp and the woof of law is human relations. We legislate about land; that is, about the use of land by human beings. We restrain corporations; that is, we lay inhibitions upon the men who act for the corporations. So with criminal law; we say that the burglar who shoots a policeman is a murderer, and the policeman who shoots a burglar is a hero—what makes the distinction? The criminal law, penetrating into the hearts of men to see what their motives are. You cannot legislate against floods, or short crops, or selfishness or bad logic. The whole food and substance of law is humanity.

This human side of law is so obvious nowadays that great efforts are made to seek authority for it at the fountain head, by giving directly to legislative acts that authority of a majority of the people which we recognize as decisive in elections. Whether

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that be wise or unwise, there can be no doubt, constitutional or moral, that the community may legislate by the initiative and the referendum if it so chooses; and its advance from one state to another, the flame running from one torch to its neighbor, reveals it as a method on which we must speedily make up our minds. I am one of those who believe in the largest trust in my fellow-men—to a genuine liking for Thomas, Richard and Henry; for an interest in their views as to their own welfare and that of their neighbors. I am willing to be outvoted by them—not too regularly. I side with Henry George in his daily text, "I am for men." I side with Walt Whitman,

"I am of old and young, of the foolish as much as the wise;
Regardless of others, ever regardful of others,
Maternal as well as paternal, a child as well as a man,
Stuff'd with the stuff that is coarse, and stuff'd with the stuff that is fine;
One of the Great Nation, the nation of many nations, the smallest the same, and the largest the same;
A southerner as soon as a northerner—a planter nonchalent and hospitable, down by the Oconee I live;
A Yankee, bound my own way, ready for trade, my joints the limberest joints on earth, and the sternest joints on earth;—
A learner with the simplest, a teacher with the thoughtfullest;
A novice beginning, yet experiment of myriads of seasons;
Of every hue and caste am I, of every rank and religion;
A farmer, mechanic, artist, gentleman, sailor, quaker;
A prisoner, fancy-man, rowdy, lawyer, physician, priest."

Yet no people, however sage, however sound, however eager, can move straightforward in any direction without a plan and without leaders. Outside of official life are several groups of individuals who mould their fellow man, and prepare the way for law making. The most obvious is the reformer; who for two hundred years has been appealing to the moral sense and justice of his American countrymen. Rarely he reaches office; usually he is a critic, often he is a crank. American government owes

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a great debt to these self-designated counsel of new client-principles. What would the world be without these one-sided men, who by their public addresses, their books, their organizations, push on the unpopular cause, which in due time shall capture the citadel and install itself sovereign? Take for example our sister Society for Labor Legislation; how much it does and will do to concentrate public interest and power upon one of the greatest problems of civilization. The reformer brings to law-making that breezy emotion, that appeal to sentiment, that incessant action, that faith in his fellow men, which is lost in the calmer decisions of the cabinet or the court-room. As Emerson puts it in his imperishable *Politics* "I have just been conversing with one man, to whom no weight of adverse experience will make it for a moment appear impossible, that thousands of human beings might exercise toward each other the grandest and simplest sentiments, as well as a knot of friends, or pair of lovers." Government needs that spirit, that brotherhood, that intense, narrow and immensely effective propaganda.

Alongside the reformer, is the journalist, who helps to make government by his steam-pump ability to suck up information and to discharge it in a broad diurnal stream. General Information is not the best commanding general for army or for nation, but he furnishes material for discussion. That is, if people accept him. One of the mournful things of our time is the skepticism of the newspaper reader, who indeed must have a believing mind if he accepts both the news of today and its denial of tomorrow. Till a few years ago most journalists were live beings that spoke what they were full of; and were taken at their face value; wrongheaded or rightheaded, fair or prejudiced, sweet-voiced or brutal, at least each man spake his own tongue, as does today the last survivor of that mighty race, Henry Watterson. Newspapers nowadays are curiously extra-human; edited by men who do not give them color; no longer strict and faithful party servants: constricted here and there by influences which outsiders little understand; no longer fountains of public sentiment, but conduits fed, one hardly knows how, except that some of them reek. Yet we all read the papers, believe such parts of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

them as seem to show that things are going our way, and should not have the stuff from which to frame our criticisms of the press, but for their exuberant news columns.

Another non-political person who affects the "government of men" is the writer on public questions. Sometimes he is a journalist, sometimes a gentleman of leisure, sometimes a college professor, sometimes a Socialist—if by Socialist we mean, as we usually do, the man who thinks on public questions differently from the men in our club. Far be it from the president of an association made up of the most distinguished and trenchant of his class to belittle its powers; for I see before me authors and teachers who with their quills, penetrate the tough hide of the public. They mightily aid in ballot reform, civil service reform, nomination reform, efficiency in government, and other like good alterations. They make available the experience of foreign nations, which in true democracy and in public welfare have in some directions outstripped what we are modestly sure is the greatest republic and people in the world. They aggregate statutes, analyze them, and prepare them for alteration. This meeting is a proof of the vitality of the writers upon government, most of whom are also teachers who sow their doctrines in the minds of those who are to be the governors of the next generation.

A greater positive force in government is the party leader: the man who can nominate candidates, draft platforms, and stir up steering-committees. If he has grown up inside a political party he is apt to feel that that is his country; and since no good legislation can be had unless his party is in power, the government of laws must wait while he is setting up fences, and pulling wires. The party leader that I have in mind is not a constructor, but a preserver of traditions and observances, who accedes to a bill, but never gives his name to it. Against that leader the most powerful engine nowadays is that swift and relentless tribunal, the direct primary.

The party leader in or out of office may be a boss; and here we strike one of the mysteries of American government, namely that so many people clamor and fight for the shell of politics and leave to some one else the kernel. James Bryce—a distinguished

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

former president of this Association—was almost the first man to put inside the thinking apparatus of the American people the concept that the man who dictates what the government shall do, is the government, the real sovereign. The boss sometimes is a titled political chief, governor or senator, unless he chance to be cast out of state or national office as one who unwarned departs swiftly forward, suddenly, when his fine carriage striketh a rock! The boss is a fair game for everybody; most of us look upon him as a political purple cow. For instance James Russell Lowell's disdainful couplet:

> Skilled to pull wires, he baffles nature's hope,
> Which sure intended him to pull a rope.

But the boss is not an excrescence nor an unlimited monarch; he is a natural product of a government of laws devoid of human watchfulness. He is the head of a feudal system, bestowing fiefs (that is, the fourth ward) on his nobles; who in their turn muster, tax, protect and tryannize over their retainers. What a happy proof of the conservative temper of Americans! They have revamped an institution that died of old age in Europe four centuries ago. 'Tis the old story; "But seen too often, familiar with her face." After all, would not most of us rather have the boss vote with us than against us—in a good cause of course! Confucius, ages ago, had to face the problem of associating with a person "guilty of doing evil," and he falls short in trying to find an offhand solution. "The Master said, is it not said, that, if a thing be really hard, it may be ground without being made thin? Is it not said, that if a thing be really white, it may be steeped in a dark fluid, without being made black? 'Am I a bitter gourd? How can I be hung up out of the way of being eaten?' " The truth is that the boss is the one conspicuous man who has made a success in American government; he is the discoverer of governmental efficiency, and otherwise could not be a boss. By his edict he makes laws, unmakes them, and circumvents them. All that the reformer and the party leader need for complete success is to tame the boss, teach him to draw their chariot, and to roar an accompaniment to their campaign songs.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Unfortunately the boss has already been captured by a very different individual—the capitalist; who, whether in or out of the government, has in all countries become one of its ingredients. As a citizen interested in his country the man of wealth may use his power for the spread of great designs; as the owner of property which he naturally seeks to safeguard, he cannot keep out of an understanding with the actual possessors of government; but let the records of the last ten years tell us how far he has gone outside the benevolent or even the defensive attitude; and has made governments his handmaids. The protest against the money power in politics is not the cry of the demagogue, or the wail of the disappointed, but the sober conviction of a great part of the American community that the interests (usually in conjunction with the boss) have provided a private government of men, the more harmful because concealed beneath the forms of democracy, and the pretense of a government of laws. Who rules England? said a satirist in the time of Charles the First. "The King!—Who rules the King?—The Duke.—Who rules the Duke?—The Devil.—Let the Duke look to it!" Let the Duke of Fourteenth Street and the Duke of Chestnut Street look to it!

A new type of unofficial governor and inciter of government has revealed himself in our day, in the labor leader, who has taken a leaf out of the corporation's book as to the power of organization and the advantage of controlling a legislature. There are several types of this personality, which will be more and more powerful as time goes on. First is the organizer, whose prime interest is to get his men to adhere; and whose vision goes no farther than control of the shop and the foreman; the 'scab;' and perhaps the policeman within hearing of the scab's outcry. A second type is the constructive labor leader, who aims at a program of relief for the laborer; who gets into legislatures, and never lets go till a workman's compensation act is passed; who has a positive governmental program, and perhaps aims at a permanent labor party. A third is the militant labor leader, who may or may not call himself a Socialist, but who takes the ground that all remedial laws are only a tub to the whale; who despises and hates the farmer, and the professional man as mem-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED.

bers of the capitalistic class; who jeers at state ownership as a remedy; and whose pole star is a revolution—or as he calls it, "A Social Democracy in battle against all the possessing classes, against the whole power of the organized state." The strongest indictment against the present government of laws is that it builds up no barrier against this onslaught by the best organized, most direct-minded and most unrelenting attack upon government which America has ever seen.

GREAT MEN IN GOVERNMENT

This malicious plan of planing down the talents of the nation is not much more destructive of good government than the method which shut out from office those who do not wear the party color or do not qualify for competition in the class of political mediocrities. A government of men must mean a government of skillfully and well-led men; or else government will sink below the level of the community. Our modern world knows too little of that hero worship which Carliyle so valiently defended. "We cannot look however imperfectly upon a great man without gaining something from him. . . . . He is a natural luminary offering by the gift of heaven, a flaming light-fountain, as I say, of native original insight, of manhood and heroic nobleness, in whose radiance all souls feel that it is well with them."

The New England towns have a fine mouthful of a word for their chief magistrates, "The Selectmen," which expresses the proper type of democratic ruler. For selection violates no principle of political equality and is the world's method of choice of rulers. In some countries certain persons called kings and queens ride in state inside the political coach; but everybody knows that the real master is the coachman; he may be designated by the sovereign, but, whether chancellor or prime minister, or grand vizier, he comes to power for no other reason than that he can drive, and will drive. The choice of officials by popular election is an automatic method of sifting out the unfit. Party spirit, political wire-pulling, and monied interests may interfere; but in any fair election the presumption is that the man who is elected

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

by a clear majority is the man whom the majority of the voters want. But given an honest ballot, a method of nomination under which popular men have a reasonable chance, clear-cut issues, and a chance at reasonable publicity; and the people ordinarily get what they want in officials and in government. Many communities have very modest moral requirements; and in a few, the majority would rather have a blackguard for a governor or a United States senator than a man of character; but when the American people wanted Washington and Jefferson, Jackson, Lincoln and Cleveland, they got them.

An election with real candidates instead of dummies, and real issues instead of shop-worn platitudes, is an appeal to high qualities in the voter. Here comes in the force of personal friendship, which some good people would banish from public affairs. We need not go to the length of the politician's definition of the really good man, "One who is willing to go to Hell for his friends," though that is not far from Jonathan Edwards's conception of the saint. The great solvent of society and government is confidence in our fellows, and admiration for high and bold character; "Great let me call him, for he conquered me." There is no greater force in life or politics than personal admiration for a great man. Such a man as Kung-shuh Wan, of whom Kung-ming Kea said "My master speaks when it is time to speak, and so men do not get tired of his speaking. He laughs when there is occasion to be joyful, and so men do not get tired of his laughing. He talks when it is consistent with righteousness to do so, and so men do not get tired of his talking."

The support of character and strength in a public man takes the life out of corrupt political combinations. The great man is the known man, whose private and public character are spread upon the records. His opponents in the canvass, and a watchful press see to it that none of his peccadillos escapes notice. The nation-wide candidate needs no biographer and no recording angel, for he cannot sneeze without accountability to the press. The big candidate is an appeal to individuality; a denial of the anarchistic doctrine that a hundred small men united in a committee have as much brains as one large man. He is a standing

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

protest against over-organization in politics, a return to the primordial practice of getting to your principle by backing up the man by whom it is illuminated.

GREAT LEGISLATORS

Where does the great man find his opportunity to lead a peaceful army in a campaign of mercy? Sometimes in breaking through previously accepted forms of government by a revolution; but such men always want to replace out-worn forms with new types, in which again they shall be prime movers. When Sam Adams has destroyed his colonial government, he joins in making the Massachusetts constitution. For nobody between Ghengis Khan and the suffragettes has cared to spend a lifetime in smashing and destroying. The modern leader is an upbuilder who not only must frame a government, but must apply it to the new problems of social welfare.

The natural place for modern constructive leadership everywhere seems to be in a national legislature. The statesman who shows prowess in the hand-to-hand conflict of debate, who can answer ticklish questions adroitly, and turn the point against his adversaries; who can hold his fellows to a legislative task, and guide a measure through the mazes of parliamentary rules, is the man who ought to be largest in a government of men. Observers have long since pointed out that the parliamentary system is better than the congressional in offering an arena for national competition; and in demanding of the legislator that he shall also be a skillful administrator. Gladstone, Cavour, Bismarck hewed their way to the front as much by their power of persuading or brow-beating their legislative chamber as in carrying laws into execution.

That advantage we have not, either in our state or national systems of government; and it is a striking fact that since John Quincy Adams no President of the United States has harked back to a previous record of great success in congress, except Polk, Buchanan, the short-lived Garfield, and McKinley. Yet the legislator's place is one that calls for leadership. A State legis-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

lature, and still more a congress, is a complicated concern, in which experience, good nature and foresight push a man forward. Skill in argument and power of exposition count for less than ability to deal with other men; to reconcile differences; to suggest compromise bills and middling phrases; to touch the strings of party loyalty; and to infuse into public life a genuine devotion to the public service. This was William McKinley's forte—long before he had national fame, he became easily the strongest man in the house, because he could bring things to pass.

The great man in American legislatures finds a narrow field; first of all because his official life is so insecure. The first-class English or French statesman may count upon a career, because he can always find a constituency. He is not drawn away to executive posts, for those posts come to him as a successful member of his legislature. His activity is not stifled in committee discussions, and he is not subject to the effect of the American machinery of parliamentary law, which crushes any presumptuous Laocoon.

American legislatures have striven to find a way out of their labyrinth through exalting a speaker; who has become the principal parliamentary leader. That works well only so long as the speaker is undeniably great in his makeup. Henry Clay, James G. Blaine, John G. Carlisle, Thomas B. Reed, would have been remarkable anywhere. When the speaker is a weak man, somebody else who controls him becomes the actual speaker; when he is a strong but narrow and obstinate man, his fellow members at last revolt. The speakership makes nobody great.

Nobody is unaware that we need greater personality in our legislatures; one proof is the number of men of force and action who withdraw even from the federal house and senate because there is too little opportunity for any one man to impress his views upon his fellow members; because there are so many chances, outside of legislative life, for a man of force to make himself felt. Why, there is hardly a distinguished member of congress who may not acquire a larger reputation and have a wider influence by resigning and taking a retainer to show his clients how to avoid and nullify the laws which he would other-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

wise be making! Here is where we most need the government of men! We demand somebody who will stop the school-boy practice of manoeuvering and voting just for the sake of putting the other fellows in a hole, instead of coming forward with a positive program. No country more needs both able and high-pitched legislators than our own; we are crowded both by our federal system and by the growth of new questions, political, social, and economic, into a mass of statutes which threaten to overwhelm us with a government of undigested laws. Who will guide us out of that Serbonian bog?

GREAT JUDGES

The judges of our courts for many years have tried to build a causeway which will sustain our sinking feet. The faults of our legislation have thrown upon them a task almost unknown in other lands, of harmonizing statutes which conflict with others within the same State; which jar with those of other States; which overlap with federal enactments. Setting out to decide private cases arising out of a government of laws, the judges have felt compelled to define the outer boundary of the total area of governmental power; to build a wall between federal and State authority; and to stand by the division between the three departments of government. For such mighty powers, for such final decisions on the authority of so many people, for the task of arbiter between such great states and such powerful organizations, there is need of great men in the judiciary.

Have such great men shown themselves in the American courts? Many leaders should have appeared among so many chosen spirits: since 1789 six hundred different persons have been commissioned as federal judges; and thousands as State judges. Yet public leadership is hardly to be found in the State courts, though from them have graduated many men of later eminence in other fields. The one nationally renowned State jurist is Chancellor Kent. We think our supreme court remarkable for its abilities, and it is remarkable: nevertheless, in the whole list of justices can be found only half a dozen names of men who

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

during their service were known throughout the country; and most of those were leaders in other fields. Is John Jay chiefly known for his juristic career, or William Patterson or Samuel Chase, or John McLean, or Levi Woodbury, or Charles E. Hughes! In the history of the supreme court there have been but two resplendent names: John Marshall and Joseph Story. Each of them an *anax andron*—a king of men; but when Roger B. Taney tried to make himself a political leader from the bench, he miserably failed. In the government of laws the official expounders of laws do not lead.

For this negative position of the judiciary, there are many reasons. It is our tradition that judges shall be set outside of parties and of partisanship; that their proceedings shall be measured and dignified; that while a case is pending they shall be protected from public criticism which might affect their minds or the decision of the jury. They have gone farther, and some courts set up the impossible doctrine that their decisions are duty-free of criticism, either from men in other departments of government, or the press, or private individuals. This very sacredness is one of the things that prevents judges from setting the pace for the people. No man protected by an iron railing can lead a cavalry charge. Whatever their desire, direct positive aggressive leadership is of course impossible for the judges, because they do not initiate law but expound it; they cannot invent test cases in order to express sound views; but must wait for such cases as come before them.

The trouble is that a considerable part of the American people feels that the judges are actually assuming a leadership and authority which is not conferred upon them. Even men learned in the law in unbalanced moments will admit that the judges are not so Rhadamanthine as they seem. The judges never can be leaders so long as there is a widespread popular belief that they do not perform their functions well. As witness the people's counsel, Mr. Dooley: "So, Hinnissy, I'd like to be a judge in a high court, dhreamin' th' happy hours away. No hurry, no sthrivin' afther immejet raysults, no sprintin', no wan hollerin' 'Dooley, J. hurry up with that ne exeat,' or 'Dooley, hand down

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that opinyion before the bathtry gives out.' A jury is f'r hangin' ivry man, but the high coort says: 'Ye must die, but take ye'er time about it an' go out th' way ye like.' If I wanted to keep me money so that me gran'-childer might get it f'r their ol' age, I'd appeal it to th' supreme coort. . . . .

"I don't see," said Mr. Hennessy, "why they have anny juries. Why don't they thry ivery man before th' supreme coort an' have done with it?" "I have a betther way than that," said Mr. Dooley. "Ye see they're wurrukin' on time now. I wondher if they wudden't sthep livelier if they were paid be th' piece."

Possibly Mr. Dooley is cynical; but the American people, which avoids contempt of court by not complaining at the law's delays, may at least complain at the delays in public commissions on the law's delays. Leaving undiscussed the question whether the courts have or have not a definite right to hold statutes unconstitutional, people have somehow a feeling that when after thirteen years and twenty-six hearings before New York judges a suit for payment of goods delivered was the other day still unsettled, the judges are not competent to be public leaders. For whatever reason, the judiciary in state and nation does not seem to be doing a clean and expeditious job; which may account for the fact that appointive judges seldom enter another field of political life with success.

The sole judicial officer who has a first class opportunity to show his quality and to please the people is the prosecuting attorney. This is the section of the judiciary department in which initiative, quickness and the willingness to give the public the benefit of the doubt in criminal cases, count the most. From this school have graduated some of the most energetic men in the country, including several later reform governors, Folk and Hadley, and Hughes (who was made governor because of the pluck he showed in the insurance investigation). The reformer sometimes defies the law and feels virtuous; the prosecutor enforces the law and feels more virtuous still. His the proud duty of leading a storming party against what people hate most: organized vice; graft percolated police; bribe-taking officials; over-grasping corpora-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tions! His the opportunity from day to day to be featured on the first page of the newspapers; to denounce spiritual wickedness in high places; and to send rascals to their well-earned punishment. Yet here again, the prosecutor's term is short, and his only hope of permanent leadership is to be taken out into a larger and non-judicial field.

GREAT EXECUTIVES

"The Master said, 'To rule a country of a thousand chariots, there must be reverent attention to business, and sincerity; economy in expenditure, and love for men; and the employment of the people at the proper season.'" Where shall the leader of the country of a million chariots be found? Confucius had in mind the constructive statesman who makes as well as applies law. And under the American system the clearest and sharpest of these forces appear to be lodged in the executive.

In nation, States and municipalities alike, the executive heads are circumscribed; they have a power of appointment, usually with the consent of somebody else; a still more limited power of removal; some authority over the military and police; a circumscribed relation to legislation; and a general supervision over the executive service. From the beginning, however, Presidents have asserted larger powers; and in course of time governors and mayors also have received them.

Executive heads are few in number compared with legislators and judges; they are chiefs of an ever budding civil service; hence they are much in the public view; and because conspicuous, rather than because powerful, they have made themselves the battering rams of American politics. Laws are admistered by men; and in the rush and crush of modern life the reign of pure law is subject to the human weakness of those who put it into force. We know that many good laws are no laws if the mayor, or the chief-of-police for the time being, so wills it; we know that technical and difficult laws are often carried out by those who have not the expert skill and knowledge to make them work; we know that laws are unevenly applied by administrators and judges. Many of these calamities come about because of a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

refusal to recognize that laws are contrivances of men, and by men must be carried out. Says Abu Du'ad "Thinkest thou that every man is a man; every fire that burns at night a fire?" A law is not a law except when vitalized by discriminating men.

In city governments the power of the mayor has been enlarged till in more than two hundred cities it has been merged in a commission which is a daring and apparently a successful attempt to combine legislative and executive power in the hands of a small body of leaders. This is a denial of the worshipful doctrine of the separation of powers, and an object lesson in what can be done by many voters putting a big responsibility into few hands.

State governors are of three types. First, the man who has come through the hawse-hole of politics, working his way from smaller offices up to the governorship; second, the commercial governor, who comes over the quarter-deck, chosen partly for his ability to contribute to party funds, and partly for his business capacity. Third, a man, sometimes politician, sometimes a man of wealth, sometimes just himself, who as governor makes himself the concentrator of public opinion—and such governors become national figures. When Governor Hughes was saving his Commonwealth from the degradation of a partnership in race-track gambling, the whole country watched him and rejoiced at his success; when Governor Johnson put himself at the head of a body of people who were trying to redeem their state from chattel slavery to a corporation, the Union applauded. Without much formal enlargement of his powers, the governor has discovered that if there is a piece of work to do, and he can make a clean issue against those who are trying to prevent its being done, he can count indefinitely on public support; and can compel an unwilling legislature to do the will of their common master—the people.

Here again we have a divergence from the old-fashioned government of laws, an unwarranted simplification of government, an unlicensed legislative chieftain, a premier, a man regardless of the previous question, who puts forward the measures on which a legislature must take action; and therefore a man who inspires the enthusiasm of the people and their support.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

What of the President of the United States—Wallace Irvin pokes fun at him through his Japanese Boy. "A President should be like a piano of upright build with some grand square qualities. He should be the First Magistrate and also the Principal Policeman in the kingdom. He should be good as he are lonesome. He should treat all Trusts in a beastly manner and uphold Truth and Justice so long as they do not hurt National Prosperity. Malefactors, etc., need not cringe off from me for fearful that I will burn up America when I am elected. Because I can't. A President is only a bluff. He don't amount to a rolling-pin. Hon. American Govt. are a system of checks and balances, so a President are deliciously powerless when he wish to reform it. I promise to be as helpless as possible. I believe in deep breathing & out door exercise, but I are cross about that woolley tariff of sheep - - - - Otherwise I are willing to act like a Majority on all occasions."

This theory of presidential power is a little sketchy, but it sketches the belief of a great number of Americans that the natural leader of this country is the President of the United States. There are many positive reasons for this idea: The President is far and away the most conspicuous person in the nation, exceeding in his permanent newspaper space the pitcher of the victorious team in the inter-world baseball series; and his duties call for large and varied abilities. As the head of the nation in foreign relations; as commander-in-chief of the only army and navy; and as possessor of broad authority set forth in the Constitution of the United States, the President is a great constitutional figure. With three or four exceptions, no man has ever reached that dignity who was not unusual; and few have failed to take with them when they left the office the good will and respect of their countrymen.

Good will and respect alone are not sufficient for a government of men; simply in order to carry out their own unquestioned executive powers our presidents must also show rare force, backed up by popular sentiment. The government is so big that the presidency is becoming clumsy, and it takes genius to keep it out of tangle. Do you realize that the executive service of the Union

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

is passing through a portentous change? The public servant has been properly protected by civil service rules from removal simply to make room for somebody else; but we are approaching something like the abandoned doctrine of a freehold in office, best illustrated by the New York police, a military force no member of which can be got rid of without a process resembling a judicial trial, on evidence which presumably would convince a jury. Perhaps a similar status is approaching for federal employees. They are forming associations which have had the aim and effect of driving out of congress members who stood against increasing their salaries. These labor unions are pretty certain to seek alliance with the unions of the employees of private concerns. It is painfully likely that in course of time these associations will demand a right to pass upon removals and possibly upon appointments. Nothing can successfully resist such a trituration of the federal government except a vigorous President, a big man in every term.

The need of great men in the presidency is further shown in the legislative and judicial powers which the president exercises with little question. By proclamation or public announcement Presidents (under authority of acts of congress) admit States and apply tariffs. Outside of acts of congress the President and the heads of departments by executive orders and department circulars make rules which have the force of law for government employees, and sometimes for other people too. The administrative decisions of heads of departments or of bureaus, establish without appeal issues of fact, and lay down principles of law.

The President is more and more becoming the point of departure for new legislation; his powers to make recommendations to congress, and to veto bills, give him an influence which is supported by the arguments and statements of executive officials to congressional committees. The President has practically thirty-two votes in the senate and near a hundred and forty in the house; and his messages over-ride attempts of committees to pocket legislation.

Larger than his constitutional authority is his unwritten power over legislation. As Mr. Dooley puts it in describing the effect

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of a President's message: "'An' what did congress say?' Mr. Hennessy asked. 'Congress didn't say anything,' said Mr. Dooley. 'Congress yawned. But Congress'll get th' rale message whin it goes over to th' white house wan at a time to see about th' foorth-class post-masthers.'" That rale President's message goes not only to members of congress but to heads of departments, to steering-committees, to party leaders, to powerful editors.

In fact a large part of the business of modern Presidents is to throw the searchlight upon measures pending in congress; by public addresses, by interviews, by signed articles in periodicals, by minatory messages to congress (meant quite as much for the general reader), by all legitimate means, the President puts before the people the necessity of new laws, just as the prime minister in England sets them forth in answer to questions, and in speeches in the house of commons. You may shudder at it or you may rejoice in it, but the power of a President backed up by the public confidence, has repeatedly compelled a reluctant majority in both houses to carry out his program. "He that seeketh to be Eminent amongst Able Men, hath a great Taske: but that is ever good for the Publique."

CONCLUSION

Here are the elements of that government of men which is to supplement, but not to supersede, the government of laws. It is simply an attempt more directly to apply the people's will to the people's benefit: and yet there is no magic in government, which can guarantee the aptness of the people's will; there never can be any government in the United States better than the people wish to have it. But I believe that it is the people's will that all government should be more simple, more direct and more efficient; and to that end we need to search out and get in action great personalities.

Not only must the people rule, but they must rule over their fundamental law. The doctrine of the sacredness of the federal constitution has long since ceased to terrify would-be amenders. Precisely because changes in government are going on, and will go on, there is a need for personal action against the radical and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the dangerous. Nowhere is intelligent leadership more needed at this moment than in the great constitutional changes which have already come over the states and will certainly come over the nation.

What we most need now is men. Not sordid creatures like those "Men of Atlas who curse the sun that galls them from dawn to dark, who never dream, who have no language and are quite devoid of civility:" but men who have souls straining to attach themselves to a great man. The common weal, the will of the people, is manyfold. No system of laws, however inspired, can make that will cohere. Men are the elements, men are the agents, men are the solution. Gone is the terror of destroying the balance of powers! Whose are these powers? And to what purpose a balance if it no longer weighs? We need confidence in trained men, belief in experts, joyful affection for those who are to carry out the people's will. Thus shall we realize Milton's vision. "Methinks I see in my mind a noble and puissant nation rousing herself like a strong man after sleep, and shaking her invincible locks: methinks I see her as an eagle mewing her mighty youth; and kindling her undazzled eyes at the fierce mid-day beam."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE PRESIDENT'S CABINET

JOHN A. FAIRLIE

University of Illinois

The recent publication, within a few months of each other, of two independent works on the President's cabinet[1] serves to call attention to an important political institution in this country, which has hitherto failed to receive adequate recognition. Mr. Bryce has stated that, in the government of the United States, there is "no such thing as a cabinet in the English sense of the term;" and the larger part of his short chapter discusses what the President's cabinet is not rather than what it is. But if the cabinet in the United States is not the same thing as the British cabinet, it is a significant factor in the operation of the government deserving more consideration than it has received.

Mr. Learned disclaims any attempt at a complete history of the cabinet; and, as indicated in the sub-title, presents a series of studies on the origin and formation of the cabinet—its anatomy rather than its functions. But in tracing the development of the composition of the cabinet, approximately half of the text is devoted to chapters on the origin and formation of the executive departments, whose heads have been added to the cabinet as first organized. A second series of studies on cabinet practices and personnel is expected to follow.

Miss Hinsdale's volume, on the other hand, undertakes a more comprehensive account of the cabinet, traced mainly in connection with the several Presidents; and forming what might be styled more accurately a history of cabinets. The opening and

[1] Henry Barrett Learned, *The President's Cabinet. Studies in the Origin, Formation and Structure of an American Institution.* New Haven: Yale University Press, 1912, xii, 471 pp.

Mary L. Hinsdale, *A History of the President's Cabinet.* University of Michigan Historical Studies, vol. I, Ann Arbor, Mich., George Wahr, 1911, ix, 355 pp.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

concluding chapters discuss various aspects of the cabinet as an institution.

The different scope and character of the two works may be indicated by noting that, in lists of about 250 bibliographical references given by each author, there are less than 70 in common. The two volumes thus by no means duplicate, but rather in the main supplement each other, in adding to our information about the cabinet. Nor do both works exhaust the subject. There is room for much further investigation in the actual working of the cabinet and its influence in the government.

Both volumes show the results of extended investigation in the sources, including not only official publications such as the records of the constitutional convention of 1787, congressional debates and reports, but also the diaries, memoirs and writings of public men. At the same time there are important points of difference in the use of some classes of material. Within the narrower field, Mr. Learned's studies have been more intensive, especially in the use of newspapers and the unearthing of forgotten pamphlets and other fugitive sources. At the same time, he seems to avoid the use of standard histories, biographies and other secondary authorities. Miss Hinsdale has made good use of some manuscript sources.

While the two works naturally discuss many matters in common, the method of treatment is so different that precise comparison can seldom be made. It is of interest, however, to observe that on the two points discussed by both, each writer has something to add to what the other has noted. In reference to the early meetings of the cabinet officers, Miss Hinsdale quotes from Jefferson's writings about several consultations not mentioned by Mr. Learned. On the other hand, Mr. Learned has not only traced the use of the term cabinet much more exhaustively; but calls attention to its use in congress several years earlier than the first instance noted by Miss Hinsdale.

Based largely on these volumes, it is proposed to present here a summary of the origin and history of the cabinet as an institution, and some features in its organization.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

While the President's cabinet cannot be considered as a deliberate creation consciously imitated from that of Great Britain, or of any other country, the analogy which led to the use of the same term warrants some reference to the British institution. Developing from the English privy council, which had reached its greatest power under the Lancastrian and Tudor monarchs, there can be traced from the middle of the sixteenth century an informal committee or interior council; and the term cabinet in its political sense can be traced from the writings of Francis Bacon. During the eighteenth century the composition of the cabinet and its relations to Parliament became more definite, and that its active place in the British government was well known in America at the formation of the Constitution of the United States is shown by a statement of James Iredell of North Carolina in 1788:

"Notwithstanding their important constitutional council, everybody knows that the whole movements of their government, where a council is consulted at all, are directed by their cabinet council, composed entirely of the principal officers of the great departments."

The framers of the Constitution were also familiar with executive councils in their colonial governments; and these had been continued in many of the early state governments. In prerevolutionary days the governor's council often included some administrative officials.

A more definite basis for the American cabinet is found in the executive offices established by the congress of the confederation, in 1781; although these did not constitute a collective council. The organization and titles of these offices show both British and French influence. Secretary at war comes from the time of Charles II; and superintendent of finance was the title of the chief finance official in France. The establishment of single headed departments followed the French rather than the British practice of the time.

Contemporaneous with the organization of these executive officials (in 1781) came anonymous suggestions that they should consult together as an advisory council. Two years later Pelatiah Webster more definitely proposed an executive council of state,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to be composed of the ministers of state, certain judicial officers and three others added by congress, one from each geographical group of states. While these proposals had no immediate result, they serve to indicate the origin of the idea of some such body.

In the convention of 1787 several plans for a constitutional executive council were presented. The Randolph resolutions proposed a council of revision, including some of the national judiciary; and Mason recommended a council of appointment, to be composed of six members selected by the house of representatives. These suggestions resembled similar councils provided in the constitution of New York. Pinckney's draft proposed that the President should "have a right to advise with the different departments as his council;" and Madison approved a council which should have a right to advise the executive but not to control his authority. In August, Ellsworth suggested a council composed of the president of the senate, the chief justice and the ministers of foreign and domestic affairs, of war, of finance and of marine. Two days later Gouverneur Morris, seconded by Pinckney, introduced resolutions proposing an advisory council of state, to be composed of the chief justice of the supreme court and the secretaries of the executive departments. This plan was referred to the committee of detail, which reported a slightly modified plan for a privy council, to include the president of the senate and the speaker of the house, as well as the chief justice and the department secretaries. In this form, the plan, with other undecided proposals, was referred to the committee of states; and here the plan for a constitutional council was abandoned.

As the outcome of these various proposals may be noted several clauses in the Constitution as adopted. In place of the suggested council of revision, the President was given the qualified power of disapproving measures passed by congress. In place of the council of appointment, the advice and consent of the senate was made necessary for appointments. And of the other plans for an advisory council the barest suggestion remained in the clause providing that the President "may require the opinion, in writing,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices."

While the Constitution thus made no definite provision for an executive council, other than the senate, several members of the convention recognized that the President would be likely to advise and consult with the heads of the executive departments; and at least two members foresaw the possibility of a voluntary council of these executive officials. Pinckney considered such an institution essential; while Mason looked on it as dangerous.

There were, indeed, three possible centers about which an active executive council might have developed. If the powers of the senate to advise and consent to appointments and treaties had been exercised by means of previous and oral consultation, the senate might well have become even more powerful than it has been in the control over the national government. But the opposition of the senate itself to Washington's efforts in this direction prevented this line of evolution. In the second place, if the senate had exercised its power of confirming appointments so as to control the selection of the heads of departments; and these officials had been encouraged to attend and to address the houses and had worked in coöperation with congress, a cabinet system more nearly resembling the British might have resulted. But the senate did not assert a control over the major appointments; and the house declined to permit the department heads to appear before it. These circumstances tended to keep the President and senate apart; and to bring the secretaries into closer relations with the President.

In the summer of 1789 congress passed the series of acts organizing the departments of state, war and treasury, and the office of attorney-general. In these acts the principal officers were not placed on the same footing. The state and war establishments were styled executive departments; and the secretaries of these departments were placed under the direction of the President. The finance establishment was called the department of the treasury, with a significant omission of the word executive, and of all reference to Presidential direction; while the secretary was to report to the legislature "in person or in writing." The

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

attorney-general had no department; and his office was established incidentally by the act organizing the United States courts.

Washington early called on the principal officers for written opinions, as authorized in the Constitution. But the practice of regular oral consultations and the development of a collegiate council developed gradually and apparently without any deliberate plan. During the first two years of his administration, Washington consulted irregularly and informally with a small group, including Madison, the leader of the house of representatives, Chief Justice Jay and Vice-President Adams, as well as the department heads after they were established. With the substitution of Madison for the speaker of the house, this group corresponded to the privy council proposed in the constitutional convention; and if the later cabinets had included the same officials there may have well developed a more cordial spirit of coöperation between the three main divisions of the government than has existed. The advice of the chief justice it may be noted, was analogous to the older English practice, where Lord Mansfield had been a member of the 'efficient cabinet' to the close of the Grenville ministry in 1766;[2] and where the Lord Chancellor is to the present time a member of the cabinet.

In April, 1791, we have a definite record of a meeting more closely resembling the later cabinet. Setting out for a journey to the south, Washington wrote to the three secretaries that if important business arose during his absence, they should hold consultations thereon. He also stated that he should wish the vice-president to be consulted, if he had not left the seat of government; but neither the chief justice nor the attorney-general were mentioned. A meeting was held on April 11, at which the vice-president, the three secretaries and the attorney-general were present.

Such meetings, however, were for some time to come held only at irregular intervals. Jefferson refers vaguely to "one of our meetings" in November, 1791, and to "one of our consultations" in December of the same year. Apparently the practice was no

[2] Anson, *Law and Custom of the Constitution*, pt. ii, 2d ed., p. 166.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

longer uncommon. But written opinions and advice continued to be requested. More definitely Jefferson notes on March 9, 1792: "a consultation at ————, present H. K. and J." Again on March 31, he records: "a meeting at the P's, present Th. J., A. H., H. K. and E. R.,—which appears to be the first specific record of a meeting of the President with all of the principal executive officers, and without the presence of the vice-president, chief justice or any member of congress.

Jefferson mentions other meetings in April, October and December, 1792, to consider a request for information from a committee of the house, and matters connected with treaties. In 1793 the meetings of the President and the executive officers became more frequent, and formal summonses appear. One meeting was held February 25, two others to discuss the second inauguration and on April 19 a notable session, which agreed on a policy of neutrality in relation to European affairs. The European crisis led to many consultations—at one period they were held "almost every day." They continued through the summer; and after an interruption during the President's vacation at Mount Vernon, were renewed in November.

During the summer of 1793, President Washington asked for the advice of the justices of the supreme court on a formidable list of questions bearing on the international situation. There were precedents for such a request in both English and colonial practice; and provision for such judicial opinions existed (and still exist) in several of the State constitutions. But the justices of the supreme court declined to answer the questions. This attitude of the judiciary, following the failure of the efforts at oral consultations with the senate and the house, may well have strengthened the tendency towards more frequent consultations between the President and the principal officers, and aided in the development of the extra-legal collegiate council.

Not only was the practice of consultative meetings thus well established by 1793, but the term cabinet was early employed to designate the collective body. It had been used by Pinckney as early as 1787 in suggesting the need for such an advisory council; but the earlier gatherings are more vaguely referred to as

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

meetings or consultations; and Washington does not appear to have used the term. In May, 1793, Jefferson referred to "our council" and "our conclave." But in June, Madison wrote of "the discussions of the cabinet;" and before long Jefferson and Randolph also make use of the same term. A year later Senator Rufus King of New York mentioned "the cabinet." In congress, the council was referred to as early as 1798; the term cabinet was used in debate in 1802; and the institution was the subject of a caustic debate in 1806. In 1803 Chief Justice Marshall used the term in the well known case of Marbury vs. Madison. In 1809, Judge Augustus B. Woodward, in a pamphlet on the Executive Government of the United States discusses the cabinet as an established and recognized factor in the government. In 1813, Josiah Quincy made a savage attack in congress on the cabinet as an instrument of despotism. Clearly both the institution and the term had come to be firmly established and well understood by those acquainted with the working of the government. Even foreign writers on the United States speak of the cabinet soon after this time.

Nevertheless the official recognition of the cabinet did not come until later. Jackson was the first President to use it in his annual message to congress in 1829. Tyler and most of the later Presidents also used it at rare intervals. It appears to have received legislative recognition for the first time in a house resolution in 1867. The first use of the term in the statutes was in an appropriation act of February 26, 1907, in connection with an increase in the salaries of the principal executive officers. These instances of legislative recognition of the cabinet do not, however, in any way undertake to regulate its organization; and the existence of the cabinet remains purely a matter of custom.

While the cabinet may be considered to have been definitely established by 1793, the frequency and regularity of its meetings was by no means placed on a permanent basis by that time. The almost daily sessions of the summer of that year were due to the critical situation in foreign affairs; and this practice does not seem to have been continued. Miss Hinsdale states that up to the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Civil War, each President had his own practice; but no data are presented for most of the administrations. Jackson held no cabinet meetings for the first two years of his administration; but that such meetings had become customary is shown by the congressional protest against their absence. Van Buren held a cabinet meeting within two days of his inauguration. Polk held more frequent and more regular consultations than any of his predecessors, apparently beginning the practice of two meetings a week, which were then held on Tuesdays and Saturdays. In Lincoln's administration, there are traces of the Tuesday–Friday rule; but this was not closely followed, and the republican senators complained that the President did not adequately consult the cabinet. Johnson held semi-weekly sessions regularly; and this practice appears to have been followed by the later Presidents, except for such times as the President is not in Washington.

When the cabinet, both as an institution and as a name, assumed definite form at the beginning of Washington's second term, it was composed of the President, the three secretaries of state, treasury and war and the attorney-general. With the participation of the attorney-general in the consultations, the chief justice disappeared from these meetings; and after the meeting of April, 1791, at which Adams was present while Washington was absent, there is no record of the vice-president attending the cabinet councils. When Jefferson became vice-president in 1791 his conception of the office as confined to legislative functions precluded his attendance at executive consultations, even had it been proposed. From time to time suggestions have been made that the vice-president should be called to the cabinet meetings; but while at times consulted, as have been members of both branches of congress, he has not been considered as a member of the cabinet.

The four executive officers were by no means on the same footing; and it was many years before it could be said that the cabinet was composed of the heads of the executive departments. As first organized, two of the departments were styled executive; but the Treasury was apparently designed to stand in closer relations to congress. The attorney-general had no department

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

under his supervision; his salary was much lower than the department secretaries; and he was not expected to give his whole time to the public service.

On the establishment of the department of the navy in 1798, the secretary of the navy was added to the list of cabinet members; and with this addition the membership of the cabinet remained unchanged for thirty years. During this period, however, the importance of the office of attorney-general decidedly increased, notably during the incumbency of William Wirt (1817–1829).

President Jackson's administration marks some important developments in the structure of the cabinet and the relations of the members to the President. The admission of the postmaster-general to the list of cabinet members in 1829 has usually been considered as a recognition of the political significance of the office, in connection with the introduction of political appointments. But it was also a recognition of the increased administrative importance of the postal service. This had been already indicated four years before when the phrase "Post Office Department" appeared in the statutes, in place of the former term "Establishment;" and also by the advance of the salary of the postmaster-general in 1827 to an equality with the four secretaries in the cabinet.

Jackson's well known assertion of authority over the secretary of the treasury in the removal of the bank deposits was significant in relation to the cabinet, in marking the termination of the view that this officer was independent of the President; and thus served to make the cabinet a more coherent body.

With the creation of the department of the interior in 1849, and the admission of the secretary of the interior to the cabinet, the President's council may be said to have reached a stage of maturity. The group of now seven executive officers acting individually and collectively as the recognized, though extra-legal, body of advisers to the President remained unchanged in structure for the next forty years; and from this time the practice of regular cabinet meetings seems to have been well established.

During this period, legislative changes of some importance were made which placed the members of the cabinet and the depart-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ments of which they were the heads on an equality in certain respects. In 1853 the salaries of the principal executive officers were increased, and all of the members of the cabinet given the same amount—$8000 a year. The increase was especially significant in the case of the attorney-general, who had hitherto occupied an inferior position to the other members of the cabinet; while it has also been accepted as indicating that the attorney-general should no longer accept private practice while in office.

In the revised statutes of 1873 several changes appeared in the terminology of the executive organization. The department of the treasury and the post office department were for the first time styled "executive departments;" and the office of the attorney-general was now organized into the department of justice. The latter change marked an important increase in the staff; and also brought the legal advisers of the other departments (except those of war and the navy) into official relations with each other and with the attorney-general. From this date it can be said that the President's cabinet consists of the heads of the executive departments.

The act of 1886 regulating the succession to the Presidency, in case of the removal, death, resignation or inability of the President and vice-president, constituted a legislative recognition of the importance of the cabinet officers, and also emphasized the distinction in rank between the several officials, on the basis of the seniority of the offices. Under this law, in case of vacancy in both the offices of President and vice-president, the succession to the Presidency falls in order to the secretary of state, secretary of the treasury, secretary of war, attorney-general, postmaster-general, secretary of the navy, and secretary of the interior.

In the last twenty-five years, two additional executive departments have been established; and their secretaries have been automatically accepted as members of the President's cabinet. In 1889 the former department of agriculture was organized as an executive department, with the secretary of agriculture at its head. In 1903 the department of commerce and labor was established, taking over a number of bureaus previously established and creating several new bureaus, all placed under the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

general supervision of the secretary of commerce and labor. These additions serve to complete the membership of the cabinet as it exists to-day. With no formal act, either of congress or of the President, establishing its existence or regulating its organization, it is clearly established by custom that the heads of the nine executive departments form an advisory council, which is regularly and frequently consulted by the President.

Analyzing the customs and practices that have been followed in the composition of cabinets, we may first note that the number of members is less than in most other countries. This may be explained in part by the federal system of government, under which some important branches of public administration are left to the states and are not provided for in the national government. Thus there is no United States official corresponding to the minister of the interior or home secretary, or the minister of education in European countries. In other cases important services are organized as subordinate bureaus, which in other countries are placed in the charge of an officer of cabinet rank. Thus the place of a minister of public works and colonial minister are performed, to some extent, by the secretary of war. Another factor is the absence of any cabinet positions with little or no administrative functions, such as the first lord of the treasury or president of the council in the British cabinet.

The smaller cabinet is a more effective body and less likely to form into groups. But it may be questioned whether the addition of some of the congressional leaders to the regular cabinet consultations would not increase the coöperation between the executive and legislative branches of the government and add to the effectiveness of the government as a whole.

Limited to the heads of executive departments who are excluded from congress, the President's cabinet is sharpely differentiated from the cabinets of countries under the parliamentary system, such as Great Britain, France and Italy, where the cabinet members are also members of parliament. Moreover the exclusion of members from congress is carried further than in Germany, where the ministers appear and address the representative branch of the legislature, although not members of that body.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The formal separation of the executive and legislative branches perhaps, in part at least, serves to explain the failure of the senate or congress to exert active control over the President's appointments to cabinet positions. Except in the case of President Johnson, the senate has confirmed the President's nominations, even when politically opposed to each other, as in President Cleveland's first term. Even more clearly, the appointments do not require either the formal or informal approval of the house of representatives, and are in no way affected by the political complexion of that body.

Nevertheless certain customs and traditions have developed which serve to regulate the President's choice of his advisers. Elected as the candidate of a political party, the Presidents have selected the members of their cabinet, with few exceptions, from their own party. Before distinct parties had emerged, Washington attempted to unite representatives of opposing political views, by appointing both Hamilton and Jefferson. But with the retirement of Randolph in 1795, the cabinet became distinctly Federalist. With the accession of Jefferson, there was a complete change to the Republicans; and since then the rule of party agreement in the cabinet has been regularly followed.

With the shifting of party lines there have been some apparent exceptions to this rule; and in a few cases individual exceptions explained by personal factors. Monroe's cabinet contained members who before and afterwards belonged to different parties. Tyler's isolated position led to some curious anomalies in his cabinet. Lincoln appointed some former Democrats and Whigs; but all definitely attached themselves to the Republican party. In more recent times, Cleveland appointed as secretary of state Walter Q. Gresham, who had been a member of Arthur's cabinet, and considered as a republican candidate for the Presidency; but he had supported Cleveland in the campaign. Presidents Roosevelt and Taft each appointed a democrat, in both cases as secretary of war; but neither had been prominent in national politics.

The party complexion of the cabinet naturally involves a complete change in its membership when there is a party change in the Presidency. But the principle of rotation has been applied

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

even where the new President is of the same party as his predecessor. In the earlier years it was customary for a new President to continue at least some of the members of the former cabinet, if of the same party. But, when Vice-Presidents Tyler and Fillmore succeeded to the Presidency the factional divisions in the Whig party were so marked that the cabinets were soon recast; and when Buchanan succeeded Pierce in 1857 he made a complete change in the cabinet. The same practice was followed under Grant, Hayes, Garfield and Arthur; while Cleveland in his second term reappointed none of those in his first cabinet. When Vice-President Roosevelt became President, he continued McKinley's cabinet for a time, and some of the members remained until after Roosevelt's election as President. President Taft retained two members of Roosevelt's cabinet.

Notwithstanding the tendency to complete changes in the cabinets, there have been a considerable list of those who have served under two or more Presidents. Among these may be noted Albert Gallatin (secretary of the treasury for thirteen years under Jefferson and Madison), W. H. Crawford, Wm. Wirt, Richard Rush, John C. Calhoun, Daniel Webster, Thomas Ewing, J. J. Crittenden, Levi Woodbury, Lewis Cass, Amos Kendall, J. G. Mason and W. L. Marcy. Since the Civil War, John Sherman served in the cabinets of Hayes and McKinley; J. G. Blaine and Wm. Windom were in the cabinets of Garfield and Benjamin Harrison; John Hay, Elihu Root, and E. A. Hitchcock from McKinley's cabinet served for two years and more under President Roosevelt; while P. C. Knox and James Wilson have been in the cabinets of three Presidents, McKinley, Roosevelt and Taft—Mr. Wilson holding the record for sixteen years continuous service in one cabinet position.

Some of the reappointments have involved promotions to the offices, which are considered to rank higher and to be more important. Thus Calhoun, Cass and Marcy were each secretary of war and later secretary of state; and W. G. Gresham and John Sherman were each secretary of the treasury and later secretary of state. There have also been a number of transfers or promotions from one department to another under the same President—

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

notably under Roosevelt, in the cases of George B. Cortelyou, W. H. Moody and C. J. Bonaparte. There have further been a number of instances of promotions within the department; but some of these have been simply to fill a temporary vacancy, and there has been little tendency for the cabinet posts to be reached, as in Germany, as the culmination of a career in the administrative service of the national government

At the same time a large majority of the cabinet members have had some experience in public affairs. About one-half have been former members of congress; and the treasury department has a number of conspicuous cases where committee service prepared the way for a cabinet post,—notably in the cases of Gallatin, Sherman and Carlisle. The diplomatic service has also served as a source of cabinet appointments, as in the cases of John Quincy Adams and John Hay. A number of former state governors appear on the list of cabinet members,—including W. L. Marcy, W. H. Seward, S. P. Chase, D. R. Francis and L. M. Shaw.

A considerable number of cabinet appointments have been based largely on political considerations. A good share of these include selections that also fall in some of the classes already noted; but in some instances services during the election campaign are the most obvious explanation for appearance of some members in the cabinet list. This has been most evident in the case of postmaster-general, in such appointments as Amos Kendall, John Wanamaker and H. C. Payne. The more recent instances of Postmaster-General Cortelyou and Hitchcock have involved previous experience in the public service as well as campaign management.

Another factor with a political bearing has been the geographical distribution of the cabinet members from different parts of the country. From the beginning of the government, it has been considered advisable to have some member from each of the geographical groups of states. But until the time of President Jackson the appointment of two members from the same state was not infrequent, though no state received two of the more important posts. With the development of the country, the newer sections of the country have also been represented; and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the selection of two members from the same state has been unusual until recent years. During the long period of Republican rule, the recognition of the southern states has been exceptional; while a larger number of members have come from the middle-west, and in two instances there has been a member from the Pacific coast. From the time of President Cleveland, there have been a number of instances of two members from the same state; and for a time there were three members of Roosevelt's cabinet from New York.

In the aggregate the largest number of cabinet positions have gone to New York, Pennsylvania, Massachusetts, Virginia, and Ohio, each of which has had 20 or more appointments; while among the other large and pòpulous states, Illinois has had only 7, Missouri 6 and Texas none. New York has had the largest number of secretaries of state and war and postmasters-general; Pennsylvania leads in the number of attorneys-general; and Massachusetts has most often furnished the secretary of the navy. New York and Pennsylvania have each supplied 7 secretaries of the treasury; but since 1860 this post has been held largely by the States of the middle-west.

Within the limits set by these considerations, each President has a considerable range for personal preferences; and on the whole has probably a wider field of choice than a prime minister in Great Britain, who is limited to the parliamentary leaders of his party. Some Presidents have clearly made some purely personal selections, entirely apart from any of the political factors and in recent years this tendency has distinctly increased. Jackson's personal appointment of Major Eaton led to serious friction. Grant's cabinet appointments were largely influenced by personal factors. Fillmore, Harrison, Cleveland and McKinley each called into their cabinets their law partners. Roosevelt made several distinctly personal appointments, especially in the later years of his administration.

Another recent tendency in the appointment of cabinet officers has been a marked increase in the number of members selected primarily for their administrative ability. This is to be seen in some of the cases of promotions; but some of the most striking

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

instances have been of men whose skill has been previously shown in the legal and business field rather than in the public service. Such appointments as Lyman J. Gage, Elihu Root and Oscar S. Strauss were distinctly of this type; while a large proportion of President's Taft selections have been of the same class.

These tendencies in the make up of the cabinet are related to the increasing influence of the President in the operation of the national government. They serve also to emphasize the distinction between the President's cabinet in this country alike from the British cabinet of parliamentary leaders and from the German ministry of bureaucratic administrators. To what extent a cabinet of this sort can effectively direct and harmonize the complicated mechanism of the national administration and can formulate and secure the legislation to carry out constructive policies calls for further studies of the working of the cabinets in the past, in their relations to the administrative services to the President and to congress, and also for a more thorough analysis of the forces that affect public affairs in this country at the present time than has yet been made. But these problems are beyond the scope of the present paper, and must be left for the future.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

EXPERT ADMINISTRATORS IN POPULAR GOVERNMENT

A. LAWRENCE LOWELL

President of Harvard University

Presidents, governors and mayors certainly cannot be experts in all the matters with which they are called upon to deal, nor, as a rule, are they thoroughly expert in any of them; and in fact this is generally true of officers elected to administer public affairs. We cannot, therefore, avoid the question whether they do, or do not, need expert assistance if the government is to be efficiently conducted. The problem is not new, for the world struggled with it two thousand years ago. The fate of institutions has sometimes turned upon it, and so may the great experiment we are trying today—that of the permanence of democracy on a large scale. Americans pay little heed to the lessons taught by the painful experience of other lands, and Charles Sumner expressed a common sentiment when he remarked sarcastically his thankfulness that they knew no history in Washington. Our people have an horizon so limited, a knowledge of the past so small, a self-confidence so sublime, a conviction that they are altogether better than their fathers so profound, that they hardly realize the difficulty of their task. We assume unconsciously, as a witty writer has put it, that human reason began about thirty years ago; and yet a candid study of history shows that the essential qualities of human nature have not changed radically; that men have little more capacity or force of character than at other favored epochs. Some improvement in standards has, no doubt, taken place, and certainly the bounds of human sympathy have widened vastly; but there has been no such transformation as to justify a confidence that the men of the present day can accomplish easily and without sacrifice what to earlier generations was unattainable.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A means of making democracy on a large scale possible in the modern world, although it had not proved so in the past, was thought to have been found in the device of representation. This was supposed to enable a large country to govern itself as small communities alone had hitherto succeeded in doing. But the faith in representative government as a universal means of solving political problems has declined markedly in America, and the conditions under which it has worked must be improved or it will not by itself bring us to our goal. It is well then to inquire whether there were not other defects in the older forms of democracy which are still with us, and which a calmer judgment, an unimpassioned study of political phenomena, may help us to remove. In doing so we ought not to forget that the century during which democracy on a large scale has endured is a brief span in history, and offers no conclusive proof of the deeper currents of human destiny, that in seeking to solve the riddle of man's social organization we must take long views, and not allow ourselves to be overwhelmed by the clamor, the complaints and the enthusiasms of the moment in which we live.

No profound knowledge of history is needed to perceive that the republics of the ancient world made very little use of experts in the public service. The two of which we know by far the most are those of Athens and of Rome; and in some important respects their methods of dealing with public office were similar, since in both the officers were appointed, as a rule, for a single year, and were practically not reëligible. The theories of democracy, as then understood, were carried farthest in Athens, where most of the offices were collegiate and many of them were filled, not by election, but by lot, every free citizen being deemed fit to occupy any civic position in the state. Under these conditions, an official could have no expert knowledge of the work to be done in his department, however familiar he might be with the discussion of political questions in the assembly; nor could he in the short space of a year acquire any considerable experience in the management of his office. In short, the administration was conducted by amateurs. Nor were these men assisted by expert subordinates or advisers. There were, no doubt, slaves in the service of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the state, to do the purely routine work of keeping accounts and the like, and sometimes, at least, a professional architect was appointed to plan a public building; but as a rule all administrative work involving the exercise of discretion was performed by citizens holding office for a year only, without any aid from experts or persons familiar by experience with the duties of the position. There appear to have been no government engineers for constructing roads, no naval architects, no professional generals, no expert financial officers. The collection and expenditure of the revenues, the direction of a war, and the fitting out of the fleet, were entrusted to unskilled men selected in most cases by lot. Such a system was considered by the Greeks themselves essential to democracy for it tended to proclaim and preserve the equality of all the citizens It did not work badly in a simple community where the various branches of the public service involved few things with which an ordinary citizen might not be familiar in his daily life, and of course it worked well while a Pericles directed the affairs of state outside of public office, as a sort of glorified boss. But the system was hardly equal to a severe strain, and we may safely assume that it contributed to the downfall of Athens before the blows of a highly organized monarchy of the same race under Philip of Macedon.

The Romans carried both the theory and the practice of democracy less far than the Greeks, yet the principle of rotation in office was rigidly applied, and the result, very different from that in Athens, has a more direct lesson for us. Under the republic the officials were chosen only for a single year, and as a rule were not reëlected. It is true that the government was in the hands of a ruling class, and that no one could hold a higher magistracy who had not previously filled the lower ones in the official ladder, so that the higher officers had enjoyed some experience in public affairs; but no single office was held by anyone more than one year, and there was nothing remotely resembling a permanent civil service. Every man was quite new to the administrative office he might fill, and left it before he had time to learn much more than he knew when he came in. This constitution worked well enough so long as Rome was a small Italian state with simple

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

industries and few foreign complications; but when she acquired dominions beyond the seas, when the contact with the East destroyed her old traditions of discipline, when instead of governing a small town and an agricultural district, her people were called upon to rule a huge metropolis, to administer vast provinces, to regulate the commercial affairs and control the political destinies of the western world, the system broke down.

After the lack of experts in the public service began to be of serious consequence Rome, unlike Athens, came into conflict with no people at all her match in political or military qualities, and the republic was brought to an end, not by external forces, but by internal weakness and constitutional instability. Of course there were other causes contributing to its downfall; of course it is easy to point to particular men at whose hands the constitution suffered violence; of course it is impossible to distinguish sharply between the occasion and the underlying cause; but surely it is abundantly clear that government by a succession of amateurs, without expert assistance, had proved itself hopelessly incapable of maintaining an orderly administration on so gigantic a scale. The state had outgrown its machinery, and the empire by creating a new organization prolonged its life.

Augustus and his earlier successors had no idea of setting up a bureaucracy to administer their dominions. In the main they merely took over, as each exigency arose and without a definite plan, those matters that were in sore need of attention. The former transitory officials of the senatorial class being unable to cope with the great problems of the day, one duty after another passed into the control of the head of the state and his personal subordinates; and it took three centuries to complete the process. Meanwhile the administrative machinery for dealing with these matters was being gradually developed, again, not on a deliberate systematic plan, but in the earlier stages, at least, by adopting the means nearest at hand. During the century following Augustus, the emperors used for this purpose to a great extent the freedmen attached to their own households and trained to conduct their private affairs on a large scale; but as time went on these were replaced by free citizens, drawn for the upper grades of the serv-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ice from the order of knights, and thus a permanent civil service grew up, which men of ability entered young and followed for life as a career.[1] It is this administrative system apparently derived in part from the practice of the Egyptian monarchy, that produced and crystallized the forms of Roman law and government. The preservation of the Roman dominions for so long a period, as well as the far longer life of the eastern empire, must be attributed in great part to the adoption of the imperial form of government with its large use of trained expert officials; and to the same source must be ascribed also the mastering influence of Roman civilization upon the modern world.

Throughout the middle ages, and indeed until a hundred and fifty years ago, democracies were small, or turbulent and ephemeral. Venice was, no doubt, a powerful and prosperous republic for many centuries, but far from being democratic, was an aristocracy of a restricted type and furnishes no exception to the general rule that democracies have in the past been small or short-lived. At the close of the middle ages the great states of modern Europe began to assume their present form, and in every case they were ruled by monarchs who employed not officials appointed for short terms, and replacing one another by rotation, but men whom they retained permanently and who were skilled in the art of administration. The new monarchies meant government by experts, and that was one of the chief secrets of their efficiency and predominance.

Now the fact that monarchies have habitually employed permanent administrators, while democracies have shown a preference for rotation in office, is not an accident. It is a natural result of the different principles on which the two forms of government are based. The use of experts is as normal in a monarchy or an aristocracy as it is foreign to the genius of a democracy. A monarch tends to retain in office the men he has learned to know and trust, who have become experienced in carrying on his business. If he is jealous, irritable or captious, he may quarrel with them from time to time, or if something goes wrong he may

[1] *Die Kaiserlichen Verwaltungsbeamten bis auf Diocletian.* Otto Hirschfeld, 2d Ed. 1905. See especially the concluding chapter.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

make a scapegoat of one of them, but in the long run he saves himself trouble and worry by keeping about him the servants whom he has found faithful and efficient; and he does so whether he is himself good or bad. If he is good, he retains good men; if bad, men who will carry out his evil designs; but in any case men faithful to him. The head of a great industrial enterprise would not think of changing his subordinates every year or two. Whether honest or corrupt, whether generous or oppressive, he wants under him men who have proved themselves efficient for his purposes; and a monarch is in the same position. He keeps his servants so long as he is satisfied with them; and if one of his chief officers dies he is inclined to fill the place with a man who has made his mark in a lower post. His ministers, being permanent, are prone for the same reason to retain their own subordinates, promoting them to higher places as they show the ability, or subservience, required; and thus a monarchy tends to produce a corps of expert administrators in every department, its public service becoming a career which a man enters young and follows through life. The service is not always good; it may become stagnant or rigid, and its members negligent, oppressive or corrupt. There have been admirable bureaucracies, and there have been execrable ones, but even the worst of them have shown a certain durability derived from the expert character of their members. In spite of the gravest vices they have given to the governments they have served a permanence beside which the democracies that existed on a large scale until a hundred years ago have seemed ephemeral.

Permanence in the tenure of public office is, on the other hand, unnatural to a democracy. The habit of repeated reëlection is, indeed, occasionally found—especially where a strong infusion of aristocratic feeling persists under popular forms, as in some of the rural cantons of Switzerland—but in general democracies tend, as in Athens, to frequent changes in office. This is partly because the people are afraid of losing their power or freedom under permanent officials; and in this connection it is interesting to compare the popular distrust of permanent administrators in America with the absence, until the last few years, of any wide-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

spread popular distrust of professional politicians, a difference largely due to the fact that the politicians mix with and court the people, taking pains to appear on a level with them, while the permanent official stands apart and remote. A boss, it is true, sometimes holds himself aloof, but then he distributes favors and is regarded as a benign special providence.

Another reason for the democratic dislike of permanence of tenure grows from an insistence upon equality, to be demonstrated by giving every man a substantial chance to take part in the administration of public affairs. Men desire not only to be well governed, but also to feel that they are governing themselves, and the readiest way of reaching this result is to throw the offices open to all aspirants. We do not need to go back to the ancient world to learn a common principle of human nature. We can look about us. Among our forefathers, as among the Greeks, rotation in office was a corollary of democracy, and while the word has become obnoxious the practice has not lost its attractions. Rotation in office is based upon the same principle as the use of the lot in Athens, for it purports to give each man an equal chance at office, and to ensure the control of public affairs by public opinion. It is, perhaps, the simplest, but not necessarily the sole or the best, method of securing that control, and one may wisely inquire whether it is not inconsistent with efficiency, and whether some more effective method of attaining the result cannot be found.

The first question, therefore, is whether experts are as much needed in modern governments as they have been in large states in the past; and the answer must clearly be that they are needed much more. The habit of frequent changes of officials, which means administration by persons without special skill in the public duties they undertake, may work well enough in a small, primitive community, such as Athens in her earlier days, or New England a century ago, or the western frontier settlements at a later time; where the common experience of ordinary men was such as to fit them to deal intelligently with the plain questions that came before the public officer. It worked well enough under the conditions that enabled a private citizen to take up a new business at any time without previous preparation.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Now in private affairs we have reached a stage where the complexity of civilization, the growth of accurate knowledge, the progress of invention, and the keenness of competition which renders a high degree of efficiency alone profitable, have brought about the specialization of occupations. We no longer believe in America today that a man who has shown himself fairly clever at something else, is thereby qualified to manage a railroad, a factory, or a bank. Are we better justified in assuming that an election by popular vote, or an appointment by a chief magistrate, confers, without apprenticeship, an immediate capacity to construct the roads and bridges, direct the education, manage the finances, purify the water supply, or dispose of the sewage of a large city; and this when it is almost certain that the person selected will not remain in office long enough to learn thoroughly a business of which he knows little or nothing at the outset? In industrial enterprise, in business concerns, the use of experts of all kinds is, indeed, constantly increasing. They have revolutionized some industries, and are indispensable in many more. Nor do we merely seek for men who have gained experience in practice. In one profession after another we have learned to train them carefully in the theory of their work, taking them young and educating them for it as a distinct career. Sixty years ago, for example, there was scarcely a school of engineering in the country, but now they are everywhere, and they can hardly turn out students fast enough to supply the demand. They are ever adding new departments, while our universities are creating new specialized schools, and thus adding to the numner of professions. We are training men today for all services but that of the public.

To the argument that the use of expert knowledge in private industries has been growing, and that the need thereof in the enlarging sphere of governmental action must be growing also, it will be answered that popular education has been greatly extended, and hence the capacity of the people to deal with public questions is larger than ever before. This is, of course, an important factor in the problem of popular government. Elementary education is so nearly universal and compulsory today, that illit-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

eracy is fast disappearing among the voters everywhere; and we may assume that as time goes on the schools will become more efficient and thorough, although probably more specialized, than at present. But the bounds of human knowledge are growing faster than education. A Casaubon, who had mastered everything known in his day, has long been an impossibility; and with the vast progress of research in all fields, specialization in knowledge is daily becoming greater and greater. Hence we have every reason to believe that diffusion of information will not relieve the world of the need of experts; but that, on the contrary, the more men learn the more they will require the services of those who know the most about particular subjects.

It will be answered also that experts are used now for all professional work; that only a lawyer is made a government attorney or city solicitor, only a physician is appointed health officer, only an engineer is employed to design a steel bridge, only an architect to plan a public building. This is true; and it means that the great professions, which have secured general recognition in the community, have been strong enough to insist that strictly professional work must not be entrusted to men who have had no professional training or experience. So far as it goes that is good; but what do we mean by professional work? We do not in practice include all work requiring special knowledge or experience in order to be well done, for we apply the principle only in the case of a few leading professions. We do not insist or demand, for example, that our postmasters, our collectors of customs, our superintendents of streets, the administrators of our finances for the nation, state, or city, shall have any familiarity with the affairs they are to conduct, or any special qualifications for their duties; and yet these matters are often nearly as complex, and require nearly as much technical knowledge, as some of the recognized professions. They require quite as great skill as many positions in private employ to which one would not think of appointing an untrained man. Are we wise in entrusting such duties to a periodically shifting body of officials drawn for political motives from an inexperienced public? The question is not meant to imply that the political heads of departments

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ought to be experts; for we need in the public service both expert and lay elements, and the latter may well take the form of a non-professional head to a department, provided he has under him thoroughly competent, permanent experts. But in many branches of the public service, central and local, we have no experts at all, no permanent officials playing an important part in the administration, and even in those matters, like legal, medical or engineering work, where experts are regularly employed, we rarely allow men to remain in office long enough to acquire that familiarity with their peculiar problems which confers efficiency and authority.

We are slowly making progress in these ways. The scientific departments at Washington are filled with men of the highest attainments, whom we may hope to see retained in spite of political changes. We have made progress also in civil service reform. Yet this practice, which was derived from England, was applied at first only to positions of the lower grade, where the work is mainly of a clerical or mechanical character. A vast benefit has been gained by taking these places out of the field of political patronage and party spoils; but the system has been applied very little to posts requiring the exercise of considerable administrative discretion. We cannot estimate what we have suffered in our great public departments, from the fact that we have not had permanent undersecretaries, thoroughly familiar with the business and its needs, and striving through a long period of years to improve the service. No cabinet officer holding his post for a single administration, or less, can possibly supply that want. It may be noted also that the United States is the only great nation with a popular government today which has not permanent officers of that kind, and it is they who keep the machinery of government elsewhere in working order.

If democracy is to be conducted with the efficiency needed in a complex modern society it must overcome its prejudice against permanent expert officials as undemocratic. It might as well be alleged that skilled engineers and modern inventions were undemocratic in war; that a true republic ought to go into battle with bows and arrows against machine guns worked by trained sol-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

diers. In fact, the disadvantage at which our cities fight with great public service corporations is largely due to the difference in the calibre of the officials employed. What chance, for example, has a city represented by a solicitor, who is perhaps changed at every election, and is paid a small salary, against a great corporation which retains the best legal talent and pays for it many times as much? And what is true in a legal contest is true also of comparative efficiency in all directions. A democracy, like every other community, needs the best tools that it can find, and the expert of high grade is the best living tool of modern civilization.

EXPERTS IN MUNICIPAL GOVERNMENT

The defects of American methods are most obvious in municipal government, for our failure there to attain anything approaching our ideal of democracy is beyond question. Future historians will have no difficulty is assigning a cause for American shortcomings in this quarter. They will point out that in Europe cities existed before the dawn of history; that the institutions of the Roman world developed in the main out of urban conditions, and were always deeply tinged with municipal ideas. They will note that in the middle ages, when the national organization was essentially feudal and rural, the cities had a vitality of their own and presented the nearest approach on a considerable scale to self-government. They will observe, in short, that urban administration is by no means a new thing in modern Europe. On the other hand, they will perceive that local government in America was at the outset almost entirely rural in character, and long continued to be mainly adapted to rural needs. The result is that while the problem of rural administration has given rise in the last half century to quite as serious consideration in Europe as the management of cities, this has been very far from the case in the United States, where local government, outside of the large towns, has followed a course so smooth that until scholars undertook a study of the subject, few men had any clear conception of rural institutions beyond their own section of the country.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The very absence of general discussion of the subject shows that, while there is a great diversity in the rural organization in different parts of the nation, each system has grown normally from prevailing conditions, and is fairly well suited to local needs; whereas in the case of municipal government, where conscious imitation has been far more common, discontent is well-nigh universal throughout the land.

In the charters of American cities the separation of executive and legislative organs, and the division of the latter into two branches, was copied from the state and national government, although these principles had no proper application, because a city government is essentially an administrative, not a legislative, concern. Moreover, wide as the divergence is today between the forms of rural and urban government in America, some principles appear to have been carried over from one to the other without regard to their fitness. The needs of a rural community are comparatively simple, and are readily understood by any intelligent man. This was particularly true half a century ago. The care of the roads and elementary schools, the assessment of taxes on farms and live stock, the impounding of stray cattle, were matters within the knowledge of everyone, and could be managed well enough by farmers of good sense chosen by their neighbors for the purpose. No special training was needed, no corps of experts; and rotation in office, if not too rapid, did not seriously interfere with efficiency. But such a custom is quite out of place in the administration of a large modern city, complicated as it must be by a variety of public services, most of which use the results of recent scientific discovery and mechanical invention. The problems arising in the supply of water, the disposal of sewage, the maintenance of streets and bridges with their numberless uses for wires and pipes as well as for travel, the provision for rapid transit, the elaborate system of public education, and the treatment of disease, pauperism and crime, are not matters with which even the most intelligent citizen is made familiar in the pursuit of his ordinary vocation. They can be mastered only by special study or long experience, and they can be dealt with efficiently only by persons who have mastered them.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

It is generally admitted that our large cities are less well governed than those of Europe, and many wise men believe that we can learn something from their longer experience. But transplanted political institutions are likely to be barren unless the roots are carried with them. There are said to be monkeys in Africa so imitative that they copy faithfully the huts of men, and then live on the outside of them instead of the inside. Political imitation is not free from this danger of copying the obvious, while failing to perceive the essential, in the working of a foreign government. Now the vital difference between American and European cities, more fundamental than any outward form of organization, is the fact that municipal administration here is usually conducted by inexpert temporary officers, whereas in Europe it is virtually in the hands of permanent experts, controlled to a greater or less extent, but never suppressed, by elected councils.

In Germany, a country where the bureaucracy does not seek shelter from the public gaze, the influence of expert officials in municipal government is self-evident. There is an elective city council, and the committees to which the various branches of the administration are entrusted contain unprofessional members; but the chief magistrate of the city, the burgomaster, is strictly a permanent professional administrator, and the business of the city is in the main conducted by him and by the other permanent officials for whom municipal work is a life-long career. In France and England the authority of the permanent officials is less apparent and one must look beneath the surface to see it. The statutes are, indeed, almost silent about their qualifications, their tenure and their duties, but in practice their influence is little less powerful because concealed.[2] In England the council and its committees purport to do everything. Yet by working through these committees and their chairmen, the town clerk, the borough surveyor, the tramway manager, the engineers of the water and gas works, and their colleagues practically carry

[2] For the influence of the permanent officials see Prof. W. B. Munro's *Municipal Government in Europe;* and for the English cities see also the writer's *Government of England*, chap. xl.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

on the administration of the city; and in general it may be said that the excellence of the service is roughly in proportion to the strength of their influence. As in every other part of the British government, unwritten conventions are more powerful than formal organization, and while the forms are carefully observed and even paraded, the real forces work unseen in the background. For this reason observers often discover the action of the permanent officials in the government of an English city today as little as Montesquieu perceived the effect of the cabinet in restricting the personal authority of the king. Even the British public servant does not talk of it, and perhaps does not think much about it, until confronted by a system in which it is lacking, and then the contrast strikes him forcibly. Mr. Dalrymple, the manager of the Glasgow tramways, reported to the mayor of Chicago that it was hopeless for the city to think of operating the street railroads so long as the officials were appointed for short terms from political motives.

Until recently our municipal reformers have not appreciated the importance of this matter. They have fixed their attention mainly upon devices that would tend to promote the selection of good citizens for public office, and have not perceived clearly enough that the best elective officers are in the long run as helpless without good permanent administrators as the latter are with a bad mayor and council. Their failure to grasp this point is evident from the model city charter prepared by the National Municipal League. Read in the light of reports which explain it, that plan was certainly intended to encourage permanence of tenure by the heads of departments;[3] and yet under the arrangement proposed, they were highly unlikely to be men who devoted their lives to administrative service as a career. They could be removed, it is true, only with a statement setting forth the reasons therefor, which must not be their political opinions; but everyone knows that such a provision does not prevent removal for political reasons where the mayor has unrestricted power to appoint the successors. What sort of a position were they intended to occupy? In a small city it is conceivable, though unlikely,

[3] *A Municipal Program*, pp. 80–82.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that the mayor might be the sole executive officer who took part in politics, who held by an uncertain tenure, and that he should supervise a corps of permanent heads of departments. But in a large city this would be beyond his powers, and although there have been occasional cases of heads of departments in our large cities who have held office continuously for long periods through changes of administration, such cases have, for obvious reasons, been extremely rare. It is not impossible for a mayor to have a cabinet of non-professional, temporary lieutenants each of whom superintends one or more permanent officials in charge of departments as the English cabinet ministers superintend their permanent undersecretaries. In such a system, however, it is essential to distinguish clearly the positions of the layman and the expert; not to prescribe their duties minutely by statute, for that cannot be done, but to make the distinction itself obvious, to make it clear, by the absence of a substantial salary, or otherwise, that the temporary or political chief is not to administer the department himself, but merely to see that it is properly administered and to keep it in touch with public opinion. Now the model charter did not do this, but apparently assumed that the head of a department was to be the real administrative officer. Under these conditions it would probably not be easy, after the first flush of the reform movement had passed, to find either experts or laymen competent and willing to fill the position. Experts of high grade would not be anxious to serve unless they had reason to suppose that they would remain during good behavior; and citizens of marked executive capacity would make a great sacrifice in giving up their regular occupations and devoting their whole time to public work for an indefinite period. Professor Goodnow, one of the authors of the model charter, has himself pointed out that heads of city departments are likely to be recruited too frequently from professional politicians rather than professional administrators or men of proved executive talent.[4]

He has treated this subject in a very interesting way, and suggests in the passage already cited that only by means of boards of commissioners can permanence of tenure and popular non-pro-

[4] *City Government in the United States*, p. 191, et seq.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

fessional supervision be secured; that single-headed departments will fall into the hands either of an official bureaucracy, or of men who make a living out of politics and from lack of adequate training are often not competent to fill these offices. In several notable instances boards of commissioners, usually unpaid, but aided by paid permanent experts, have certainly succeeded in combining the two elements in a highly satisfactory way; although it may be doubted whether Professor Goodnow is right in thinking this the only means to the end.

CITY GOVERNMENT BY COMMISSION

One of the chief merits of the new plan of placing the whole city government in the hands of a commission is the opportunity it affords of maintaining a corps of permanent administrators working under the supervision of the members of a board; for an elected commission is well adapted to the purpose, and its operation in this way would not interfere in the least with the other merits rightly claimed for it.[5] That, indeed, has been the course actually pursued in Galveston where the plan of government by commission had its origin and where its benefits have been most marked. The mayor receives a salary of $2000 and is required by the charter to devote six hours a day to city work, but no such provision is made in the case of the other commissioners who are paid only $1,200 and are said to give on the average two hours a day. They do not, we are told, undertake the actual management of the routine in their departments, which is done by the superintendents under them. They simply advise and direct,

[5] Mr. Ford C. MacGregor, in his *City Government by Commission*, lays down four essential features of the plan. First, a concentration of all power and responsibility in a small body, instead of dividing it between an executive and a legislative branch. Second, election at large and not by wards. Third, the fact that the members of the commission are the only elective officers of the city, with power to appoint all subordinate administrative officials. Fourth, the power to remove all such officials at will. None of these features is in the least inconsistent with the existence of permanent expert officials in charge of departments which are supervised but not directly administered by the members of the commission. In fact all these features, except the election at large, exist in the English cities where the administration by permanent officials prevails.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and thus men prominent in active business have been able and willing to serve the city term after term as members of the commission.[6] But in the later charters that excellent principle has not usually been followed. A feeling arose that the commissioners ought to be the actual administrators of their departments; and hence in Houston, the second city to adopt the plan, their salaries were doubled and they were expressly required to devote their whole time to the city.[7] This idea has prevailed generally, and in most of the cities which have adopted government by commission, substantial salaries are paid to its members, intended apparently to be large enough to compensate them for their whole time. A few charters, indeed, such as those of Lynn, Massachusetts, and Baker, Oregon, go as far as to provide that the commissioners shall be specifically elected by the people to take charge of particular departments.

Now election by popular vote is a very poor way of selecting expert administrators, because however good judges the people at large may be of a man's general intellectual and moral capacity, they have neither the means nor the leisure for the careful scrutiny needed to estimate his professional qualifications. An appointing body, if it does its duty, examines more evidence and considers more candidates before making a selection than the public can possibly do, and the best experts are highly unlikely to be willing to undertake a campaign to obtain the place.[8] Moreover, if expert administrators could be chosen in this way, they could hardly be permanent, for that is inconsistent with representing a fluctuating public opinion as expressed in recurrent elections. Nor is it practicable to have expert administrators of high grade under commissioners chosen for the purpose of administering the departments directly and paid full salaries for so doing. It would be playing false to the people by taking pay for work not done, even if the double charge of full salaries to both

[6] MacGregor, *op. cit.*, pp. 38–39.

[7] *Ibid.*, pp. 43–44.

[8] Mr. MacGregor, *City Government by Commission*, p. 49, remarks: "It is probably now generally recognized that it is easier to secure professional and technical men by appointment than by popular election."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

commissioner and administrator were not prohibitive. The public cannot be expected to pay one full salary to a commissioner for administering a department and another to an expert subordinate for doing his work. Considerable salaries would, indeed, actually tend to eliminate men of large experience in affairs from the commission. A sense of civic duty will induce many such men to devote their spare time to public affairs, but if they are expected to give up everything else they cannot afford it. The bigger the man, the more he earns in his private occupation, and the less adequate the compensation for his whole time; whereas a salary which involves a heavy sacrifice for him is very attractive to a smaller man.

City government by commission has not yet been tried long enough to warrant a decisive estimate of its value. Every new plan works well for a time, because the movement for reform from which it springs brings good men to the front and places power in their hands. The real test comes in later years, when the momentum is exhausted, and the moral enthusiasm of the dawn has faded into the light of common day. The merit of the commission plan will probably depend upon the capacity it develops for providing expert administration; and that in turn involves a matter little understood in America—the proper relation between the expert who carries on the public service and the representative of the public under whom he serves.[9]

[9] One of the few direct encouragements in any American city charter to the use of experts in municipal government is to be found in the new charter of Boston, which provides that an appointment by the mayor shall not take effect unless the civil service commission of the State certifies that the appointee is an expert or a citizen qualified by his character and experience for the position. This is not a very long step, and makes no provision for the proper use of experts; but it was designed, by drawing attention to the need of them, to promote their selection, and it has not been without effect.

A very incisive discussion of the function of experts in municipal government is contained in the latest Baldwin Prize Essay by Arthur Dexter Brigham.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

DIPLOMATIC AFFAIRS AND INTERNATIONAL LAW, 1912

PAUL S. REINSCH

University of Wisconsin

The dominant fact in foreign affairs in the year 1912 was the existence of the wars against Turkey. Turkey in Europe, and the entire Balkan region, had long been looked upon as the powder barrel of Europe. Anxiety concerning the future of this region had become a constant fear in European diplomacy, and although scares were of frequent occurrence, the nerves of Europe did not seem to get accustomed to them. Every war-cloud arising in that region seemed to threaten a storm that would sweep the entire continent. It was, therefore, natural that when Italy became involved in a war with Turkey, European policy should be full of apprehensions, and should exert itself to the utmost to tide over the dangerous situation. It did secure the limitation of the area of hostilities during the war over Tripoli, but its efforts to prevent the Balkan states from taking advantage of the opportunities afforded were fruitless, and the future seemed very uncertain, indeed. But when war had been begun, the action of the Balkan allies revealed an organization so effective, a management so capable, that a new status was almost immediately created in the Balkan region. A powerful organization seemed to have arisen which could take charge and solve the difficulties of Macedonia on the spot. Turkey became an Asiatic power, and the entire indirection that had been the bane of the Macedonian situation was brought to an end. While up to the close of the year there still remained many circumstances that inspired anxiety, nevertheless the air was cleared perceptibly by the revelation of this new, capable, and reliable political organization in southeastern Europe. Under present conditions, the troubles and problems of international politics rise largely from the weakness and incapac-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ity of a state; when the power to govern well, and to defend itself, has been demonstrated by a political organism, the general stability of affairs is promoted.

THE WAR ABOUT TRIPOLI

The area of the war, which during the year 1911 had been restricted to Africa, with sporadic demonstrations along the Albanian coast, was extended during January and February of 1912. The Italian navy carried its action first onto the Red Sea; then to the Syrian town of Beirut, in the harbor of which a number of Turkish vessels were demolished; and finally, in April, there occurred an Italian demonstration in the Dardanelles, at the very doors of Constantinople. The Island of Rhodes was occupied, and in rapid succession other Turkish islands in the Aegean Sea were seized, until the Italians controlled twelve of them. The appearance of Italian vessels off the Dardanelles caused the Turkish government to close that passage to vessels of commerce—an action which threatened to interfere disastrously with the shipment of Russian grain from the Black Sea ports. The closure was, however, only of short duration, although the Turkish government repeatedly took recourse to this means of action.

The movements executed by the Italian fleet caused great apprehension in Europe, as it was feared that in consequence of this action the area of land war might also be extended so as to include Turkey in Europe and Asia and directly to affect the interests of the other powers. On its part, the Italian government maintained that the naval action was entirely in accord with its declared purpose not to carry the war into European Turkey, and that it represented merely a necessary and reasonable employment of Italy's sea power, for the purpose of bringing the war to a rapid conclusion, and vindicating the right to the occupation of Tripoli.

Meanwhile the lines of occupation in Tripoli itself were being gradually extended by the Italian army. This progress was indeed slow, as the resistance of the interior tribes, which were constantly replenishing their forces and supplies, kept up with

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

unabated energy. Yet the superior organization of the Italian army had its effect, and it became possible to occupy important posts in the interior, through which the caravan routes could be dominated.

The war was vastly more expensive to Italy than to Turkey, and the latter evidently relied upon the probability of the Italians becoming exhausted before they could decisively make good their position in Tripoli. The naval action indeed worried the Turkish government not a little, and yet it was felt that, should the Italians actually carry the war into the more central Turkish dominions, they would find it a very serious undertaking. On the other hand, the reconquest of Tripoli by Turkey was rendered difficult, if not impossible, by the sea power of the Italians. In this matter the Turks relied upon the warlike energies of the natives of northern Africa, believing that the Italians would have to encounter not only the tribes of Tripoli itself, but numberless volunteers from Tunis and other Mohammedan regions.

But immediately after the second half of the year had begun, another danger dawned upon Turkey in the form of the pressing demands of the Balkan states. This rendered the Porte some what more inclined to consider Italian proposals. A preliminary peace conference was held at Lausanne, and finally, on October 15, just before the Balkan allies began military action, the treaty of Lausanne was signed, by which Turkey ceded Tripoli and Cyrenaica, and Italy returned to Turkey the Aegean islands occupied by her. Italy further agreed that the sultan might retain the rights of religious headship over the Moslem in the ceded region. Italy had thus achieved her purpose, and had made good the occupation of the Turkish dependency, which she had considered necessary to her own national life, and which she believed had been administrated by Turkey in such an inefficient manner as to make it justifiable for some other government to take over the control. The manner, however, in which Italy had begun this war, without being impelled thereto by a substantial grievance, will not so soon be forgotten. In a cynically direct way, this action brushed aside all considerations of lawfulness, and placed itself squarely on the standpoint of the prime validity of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

organized force. Throughout, however, the Italian government showed consummate diplomacy, both in selecting the moment of decisive action, in preparing for it, and carrying out her purpose without encountering serious opposition from any source.

Early in the year a diplomatic incident arose between Italy and France. The *Carthage* and the *Manouba*, French vessels, had been seized by the Italians, on the charge that they were engaged in un-neutral service. One of the ships was carrying aeroplanes, the other a group of Turks who claimed to be members of the Red Crescent Society. For a while feeling ran high, as the French were greatly incensed at this interference with their vessels, while the Italians, on their part, charged the French with a breach of neutrality. The matter, being pressed by the French government, was adjusted by the Turkish prisoners being set at liberty, and the status of the ships being referred to The Hague tribunal for adjudication

THE BALKAN WAR

The last three months of the year witnessed a war that, in the importance of its motive forces and its results upon the future political alignments of the world, would yield to few wars of modern history. The accounts of centuries were here balanced. The pent-up feelings of injustice and oppression, nourished in the breasts of helpless generations, finally burst forth with a sweep of elemental natural force. The war came as a surprise to the world, and in its progress it upset the most respected calculations and belied the most authoritative forecasts. Turkey herself was taken entirely unawares. Decades of diplomatic fencing, of counterbalancing of forces and rivalries, had given her an assurance that she should always be able to play off her opponents against each other. She regarded as entirely improbable, indeed as impossible, any efficient coöperation between the Balkan nationalities themselves. For scores of years they had been engaged in bitter rivalry in their efforts to gain influence and an acknowledged position of leadership among the Christian subjects of Turkey in Macedonia. Macedonian troubles had

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

been due only half to Turkish oppression; they had been aggravated and redoubled by the constant hostility between the Bulgars, Servians, and Greeks, not to mention Albanians and Vlachs, in their insistent efforts to improve their claims on the racial allegiance of the Macedonians. But the apparently impossible came to pass. Bulgarian diplomacy, seconded and protected by that of Russia, succeeded in making Servia, Montenegro, and Greece acknowledge the fact that the pitiful situation of Macedonia could never be improved so long as Turkey could make use of their mutual rivalry to maintain her political dominion. The Tripolitan war had revealed the weakness of the Turkish organization. The golden opportunity seemed to have at last arrived. To follow up the successes of Italy with an united attack upon Turkish dominion in Europe could not but shake Turkish power to its foundations. Military preparations were brought to a head in the first part of October. The European powers, fearful of the consequences which an action by the Balkan peoples against Turkey might have upon the general peace of the world, used their diplomatic influence to prevail upon the allies to desist. But, as European diplomacy had shown itself unable to find a remedy for the faults of Turkish dominion in Europe, so it now lacked the moral hold and strength to prevail upon the allies to give up the desire to secure relief for the Christians of Macedonia through their own action.

On October 8, on the very day when the concerted diplomatic representations were made by Austria and Russia on behalf of the great powers, Montenegro took military action against Turkey. The others, pleading that they could not now abandon their ally, continued their menacing attitude until, on October 17, a Turkish ultimatum was followed up by the Porte declaring war against Bulgaria and Servia; on the same day, Greece, acting in complete understanding with the Slavic states, on her part issued a declaration of war against Turkey. Even before war had been declared, Turkey had seized a large number of Greek merchant vessels, in anticipation of hostilities. The demands of the allies upon which their warlike action was based, included autonomy for Macedonia, the appointment of Christian gover-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

nors in the Macedonian provinces, the withdrawal of Turkish troops, and the representation of the Macedonian Christians in the Turkish parliament. The allies declared that they had no intention of bringing about territorial changes. The latter point was also insisted upon by the great powers, who declared that in the event of military action being taken, the Balkan states must not expect to extend their territorial boundaries.

The military preparation of the allies was so complete, they proceeded with such rapidity and masterfulness, that they might almost be said to have established an immediate occupation of the Turkish provinces in Europe. As the Bulgarians were closest to the Turkish capital, it was natural that the brunt of the fighting should fall upon them. They astonished the world by the efficiency of their military organization, as well as the qualities displayed by their soldiery in general. Before the end of October they inflicted a decisive defeat upon the Turks at Lule-Burgas, and forced the Turkish army to retreat to the fortified lines of Tchataldja, close to Constantinople. A part of the Turkish army was bottled up in the fortress of Adrianople; all sorties were successfully resisted, though it was not possible to reduce the fortress itself. Meanwhile military operations were carried on with scarcely less energy by the Servians and Montenegrins in the northwest, and by the Greeks in the south of Macedonia—the former taking Novi Bazar and Uskup, the latter, with some support on the part of Bulgarian troops, occupying Saloniki.

The rapidity and completeness of the Turkish downfall astonished the world. It was due partly to the general incapacity of the Turks for efficient organization on a large scale. They were, moreover, totally unprepared, as they had conceived joint action by the Balkan states as impossible—a belief in which they had been shrewdly strengthened by the diplomacy of Bulgaria and Russia. So defective was their organization that the troops constantly found themselves without proper provisioning, sanitary service, and even ammunition. The morale of the troops was impaired by an inverted fatalism, due to the recent defeat of Turkey by Italy; it seemed to lie in destiny that the Turks were to lose their dominion in Europe, and return to Asia, nomads as they had come nearly five hundred years ago.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

When the present hopelessness of her position became clear to Turkey, she sued for an armistice, undoubtedly cherishing the hope that, as in 1878, diplomacy might win what war had lost, or that, if there should be a return to fighting, her position would be improved through the arrival of reinforcements from her Asiatic dominions. As the allies had now occupied all of Turkey in Europe, with the exception of Adrianople and the immediate vicinity of Constantinople, they had no ground for resisting the suggestion that a parley be held. This was moreover very strongly pressed upon them by the European powers. So a diplomatic conference was arranged for, which met in London on December 16, and which negotiated until the end of the year without arriving at an agreement. In the last proposal, Turkey still insisted upon retaining Adrianople and the Aegean islands with the exception of Crete—conditions which the allies were unwilling to accept. It seemed that pressure by the European concert would be necessary to make Turkey realize and admit her real position.

While the war, involving as it did the question of Turkish dominion on the European continent, was momentous enough, even if only the belligerent states themselves be considered, it gained vastly in importance through its bearing upon the ambitions and policies of the great powers, especially upon the destiny of the Slavic race in Europe. The Russian government, while remaining neutral, assumed and maintained a most benevolent attitude towards the ambitions of the Slavic nations in the Balkans. Herein it was at one with the Russian people, who followed the action of the Balkan Slavs with a spontaneous sympathy, and who with great enthusiasm shared the joy of their victories. The manner in which the interests of the great powers were involved was brought out clearly when Austria objected to the acquisition by Servia of a port on the Adriatic. When this protest was made, the world realized that it was in the presence of a great crisis, which might easily result in a general war. It was not the question of a port on the Adriatic itself that could have such consequences, but the whole complex of facts and relations to which the Austrian protest was an index. The situation represented a life and death question to the Austrian

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Empire—the greatest crisis in its history, since the war of 1866 had severed it from the other German states. The coming of Servia to the Adriatic would not have meant merely that Austro-Hungary would therefore be excluded from extending its system of communications eastward to the Aegean, but it would also mean the strengthening of Slavic power in southern Europe, outside of the Austrian Empire, to such an extent as to make it problematical whether Austria-Hungary could retain permanently the allegiance of her own Southern Slavs. As is known, Austrian policy had for some time been working towards the constitution of a great southern Slav (Young-Slav) kingdom, forming part of the Austrian Empire. In thus making the dual monarchy a triad of German, Hungarian, and Slav elements, it was hoped that Servia could be drawn into this Slavic kingdom of the south. An entirely different direction would be given to probabilities, should Servia, strengthened through the present war, achieve an outlet to the Adriatic Sea, remaining in alliance with Bulgaria, and under the influence of the Russian Empire. The threatening shadow of Russian power would then be surrounding Austria-Hungary on the north, east and south. Could, however, Servia be denied access to the Adriatic, she would remain more dependent upon Austria-Hungary, and at the same time her unsatisfied desire for expansion would make it probable that friction would again occur between her and Bulgaria. Thus the hope would be kept alive that Servia would ultimately enter the Austro-Hungarian federation, as a part of the Slavic kingdom of the south.

The alternatives in the Balkan situation at the present are, therefore, the creation of an independent Slavic state in southeastern Europe, composed of Bulgaria, Servia, Montenegro, the northern part of Macedonia, and the vilayat of Adrianople, with access both to the Adriatic and the Aegean Seas; with the probability of attracting the southern Slavs in the Austro-Hungarian Empire. This first alternative, in the minds of many, includes and foreshadows a second, the dominance of Russian influence and ultimately of Russian sovereignty, in southwestern Europe. The third alternative would be the creation of a Slavic state,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

including Servia, within the boundaries of the Austro-Hungarian Empire, giving to the southern Slavs an organization which, through its intimate alliance with Austria, would be protected against Russian domination. It is, however, not to be supposed that Bulgaria and Servia, if established as powerful Slavic states, would readily subordinate themselves to Russian power. Grateful as they are for Russian assistance and goodwill, they would not be likely to court the fate of other Slavic races like the Poles, or Little Russians, who are now under Russian dominion. While thus, there would seem to be a considerable likelihood that a large Slavic state or confederation in the south of Europe would be jealous of its independence, even over against Russia; yet its situation would be such that in critical times it might be driven to rely upon Russian support, at the expense of complete freedom of political movement.

The protest of Austria against the occupation by Servia of a part of the Adriatic coast took the form of a vindication of the rights of the Albanians to autonomy and to an uncurtailed possession of the territories held by them. In this, Austro-Hungary had the support of the Italian government, which also does not desire to see Albania absorbed by a Slavic state. As this policy is in line with the general professions of the Balkan allies and with the demands for national autonomy which they are making in their own behalf, the position taken by Austria and Italy had considerable logical strength. After some uncertainty it became clear that Servia would not make extreme demands, provided that she could be assured of free commercial transit by way of an Adriatic port.

It happens that the interests of the west European powers in this crisis follow a grouping that corresponds to the existing alliances—a fact which seemed to aggravate the seriousness of the situation. The powers of the Triple Alliance view the situation from the same standpoint, and accordingly it is not surprising that the alliance, which seemed to have suffered in cohesion through the action of Italy against Turkey, was renewed again in solemn terms in December, a considerable time before its expiration. On the other hand, Great Britain, animated by a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

desire to block any plans of German expansion, and consequently ready to have Russia step in the way of the Germanic nations, even in Turkey, which Great Britain formerly so jealously protected against Russian encroachments, has no objection whatever to the growth of a strong Slavic state in southwestern Europe. France, for her part, is mainly concerned that the payment of the public debts of the parts affected shall not be interfered with. Realizing the gravity of the situation, and the terrible nature of a general conflict, both Great Britain and Germany, however, used their influence in behalf of a peaceful solution. The German chancellor indeed made a parliamentary declaration to the effect that Germany would be faithful to her allies, which was followed by a similar manifesto by the French minister of foreign affairs; but it is certain that the influence of Germany was exerted toward calming the warlike energies of Austro-Hungary.

A foretaste of what economic disturbances a general European war would produce was given by the condition of the European exchanges, in October when the Balkan war broke out, and again a little later, when Austrian complications were threatened. It has been calculated that, during the critical days in October, values on the German bourses alone shrank by an amount of $500,000,000, while the entire depreciation of European securities reached the sum of $6,000,000,000 during the last quarter. The total paralysis which would strike credit, and thereby economic enterprise, in the event of a general European war, it is terrifying to contemplate. It is plain that especial suffering would be inflicted upon a country like Germany, because of its highly organized and delicately adjusted economic life, which, being on an upward grade, is in the need of constantly expanding credits. Very different is the situation of the countries actually involved in this war. Not having a highly developed industrial organization, but being composed of agricultural communities, they did not suffer that complete derangement of economic life which would take place in a state industrially more advanced. Their sufferings and sacrifices were indeed great, but not such as to involve almost immediate economic bankruptcy. *Moratoria*, or delays in payment, had indeed to be granted, but they are common in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the agricultural credit of these countries. As to economic activities, the harvest had been garnered; the provisioning of the army was done largely with products of the country itself. There was no industrial life to be paralyzed by the withdrawal of labor and credit, so that the economic effects of the war upon the immediate belligerents, serious as were the sacrifices made, would give but a remote idea of the derangements that war would cause in a state of western Europe.

The two wars of 1912 have a common characteristic in that they took the form of an occupation of territories long misgoverned by a sovereign devoid of all efficient organization. The object in modern military action is to create immediately, or within the briefest possible space, a status, such as the occupation of territory or of some point of cardinal importance. It is hardly conceivable that under modern conditions a government would undertake a war for such an indefinite purpose as the general predominance over some other state. The responsibility is too great, the chances of war too fearful, to risk national existence in such an enterprise. But a different situation exists, when through the utter inefficiency of some other political organization, opportunity is given to create a new status. If, on such occasions, a balance between neutral states can be secured, as was done by Italy, so as to avoid the danger of interference, a nation desirous of expanding its development and its activities may endeavor to displace the incapable power. A new status of this kind is frequently created by diplomatic means alone, as was the Russian position in Manchuria, or her present influence in Persia. But when the chance is promising and the time pressing, diplomatic means are sometimes supplemented by force. It is in the taking of position in this manner, step by step, in the gradual displacement of non-efficient by efficient organizations, that modern war plays its part. A general haphazard fray need not be feared, but indeed serious enough conflicts may arise through the attempt of creating a status by immediate action, when the power of resistance of the apparently weak organization, or the aspect of the general diplomatic constellation has not been rightly judged by the power taking action.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

One reason for the justness of these considerations may be found in the fact that in modern warfare, the position of the defensive is so much stronger than that of the attack that, from the point of view of responsibility for eventual success, a forward movement could hardly ever be justified, if it proceeded upon the basis of a general struggle against another nation for supremacy, while it might be quite probable that the taking of a definite position could be successfully maintained. In a sense, therefore, it may be said that war is going on all the time. Nations develop their organization, including their military and naval strength, and when an advanced position is taken in diplomacy by one of them, this is done in reliance upon the strength of the national organization. Instead of going to war and trying out the situation, as it would have been done in a less scientific age, modern diplomacy calculates the potentialities involved, and makes allowance for the strength of the actual factors. It was not necessary for Austro-Hungary to fight in order to complete her claim to sovereignty over Bosnia and Herzegovina. The potentialities involved were calculated by the powers concerned, and they acted or forebore to act accordingly.

In our age it is not brute force, but efficiency of organization that controls. This does not say that it may be possible always to avoid armed conflict between highly civilized and efficiently organized states, but it does seem to indicate that a government would be entirely out of touch with the spirit of the times if it were to go into war without a very definite purpose as to some specific position to be maintained, or a status to be created, which position or status it firmly believed to be founded on essential justice and to have a necessary relation to the development of its own organic life and efficiency. This might indeed lead to a general and bloody war, but it seems apparent that this method and course of procedure is at any rate far less likely to involve the world in general wars than would those vague and indefinite aspirations and hostilities which form the stock in trade of so much discussion concerning international politics.

It is entirely in accord with the character of modern war, as being waged for the protection or the maintenance of a definite

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

position, that an effort should be made by the neutrals to circumscribe the area of hostilities. This was done in the Russo-Japanese war, when it was agreed that military action should be confined to Manchuria, and should not involve China proper. In a similar manner, the neutral powers secured the limitation of the extent of hostile action of Italy against Turkey in the Tripolitan war. In the Balkan struggle, the area of warfare was limited by the fact that the allies had definitely announced their purpose as relating exclusively to the betterment of conditions in European Turkey. There is a great gain to civilization in this practice; for not only does it protect regions which are not directly involved in the issue of the war from invasions and useless harryings, but it serves also to render much clearer the idea that the purpose of war is the occupation of a certain position, and not a general fury of destruction.

WESTERN EUROPEAN AFFAIRS

The situation in western Europe continues to be dominated by the intense rivalry between Great Britain and Germany. The hope that an understanding with respect to the limitation of armaments might be arrived at had again to be deferred, notwithstanding the fact that on both sides declarations were made indicating a readiness to come to such an agreement. Each side, however, waited for the other to take a decisive step in that direction, and thus the condition still obtains that in both countries, and in others as well, which are influenced by this situation, the size of the budget is fixed by what another country does in the way of military preparation. A move which helped to keep alive this estrangement was a new disposition of the French fleet, announced in August. The remaining British battleships were withdrawn from the Mediterranean and incorporated in the home fleet, while the entire naval force of France was concentrated in the Mediterranean. This action, which gives France the predominance in the Mediterranean, was taken in order to increase the striking power of both the French and British fleets, which now have their units closely brought together, so

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

that they can be handled as one powerful weapon. Clearly a part of the policy of "penning in" Germany, this new measure was deeply resented in the latter country, and served to dispel any hope of arriving at an understanding with Great Britain with respect to naval forces. In behalf of Great Britain, efforts were continued to have the self-governing colonies and India contribute to the maritime power of the mother country. It was announced that the native princes of India were contemplating a "gift" of several war vessels; and on December 5 the Canadian cabinet introduced a bill in the Ottawa parliament which provides for the construction of three dreadnoughts, at a cost of $35,000,000, which are to be placed at the disposal of the British admiralty. All this points to the conclusion that Great Britain has no idea of giving up her predominance on the sea without a struggle.

In diplomacy, England won recognition for herself through the manner in which the difficult situation growing out of the Balkan war was handled; as a result, London was selected as the place of meeting for the peace conference. All this seems to point to a new conception of imperial policy in Great Britain. Considering the advantage of her world position, and relying upon the strength derived therefrom, that country is inclined to steer clear of purely European embroilments. Such a policy, if carried through in a just and liberal spirit, would give England an opportunity of following an impartial course in European affairs, and thus greatly adding to her influence. It is certain that she will attempt to mold the temper of her various allies, in accordance with her imperial interests, rather than from the point of view of purely European rivalries. When, in April, the greatest German diplomat, Baron Marschall von Bieberstein, was put in charge of the embassy at London, this was looked upon as a sign of a desire on the part of Germany to use her best efforts to settle her outstanding difficulties with England; but Baron von Marschall's death supervened in September, and the rise of an entirely new situation in the Near East led to a new stage in Anglo-German relations, the true bearing of which has not yet revealed itself.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

France continued to develop her interests in Morocco, now freed from any fear of political interference on the part of Germany. On March 30, a formal treaty of protectorate was concluded between France and the Maghzen. The adjustment of the special claims which the Spanish advance to an interest in northern Morocco was settled by an agreement concluded on November 27.

FAR EASTERN AFFAIRS

In China the formal abdication of the Manchu rulers on February 12 was followed by the establishment of a provisional government under the headship of Yuan Shi-kai which has, notwithstanding difficulties of many kinds, succeeded in maintaining law and order throughout the provinces. No formal recognition has been given the Chinese republic as yet, as the governments are waiting for the complete establishment of permanent republican institutions by the constituent assembly, which is to assemble in January, 1913. The American congress, however, by a concurrent resolution, April 17, expressed the sympathy of the American people with the establishment of republican institutions in China. In a note directed to the German ambassador, and growing out of a correspondence begun by the German government, Mr. Knox on February 3, while affairs in China were still somewhat unsettled, declared for the maintenance of China's territorial integrity, and took position against interference, except by joint action of the interested powers, and for the protection of their nationals. But while the powers in general adhered to a policy such as that expressed in this note, as far as the eighteen provinces of China proper are concerned, China in the course of a year was made to feel that she was in danger of losing her dependencies.

When the Chinese government dispatched troops to Thibet for the purpose of restoring its authority there, Great Britain, on August 17, protested against this action as being out of accord with the treaty of 1906. At the same time the French were advancing their interests in the southern province of Yunnan. But it was the situation in Mongolia that gave the Chinese spe-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

cial anxiety. The Buddhist high priest (Hutuktu) of Urga, under whose headship Mongolia had made a move for independence in December, 1911, continued to be assisted by Russia, and to be entirely under the influence of Russian agents. Towards the end of the year it became known that the Russian government had made a treaty recognizing the independence of Mongolia, and it was commonly believed that the terms of this agreement, which were kept secret, included a virtual guarantee of that independence by Russia. This act excited the greatest indignation in China, where it was felt that Russia was trying to take advantage of the temporary embarassments of the Chinese people, to deprive them of a region which they needed and which they would be able to administrate efficiently as soon as their government had been permanently organized. Popular feeling against Russia was very bitter, and in December, by general understanding, a boycott of Russian goods came into being, and there was a run on the branches of the Russo-Asiatic Bank in China. The Tutuhs, or military commanders, of the various provinces organized special expedition corps to be used in restoring Chinese authority in Mongolia. Japan had throughout the year maintained a quiet and reserved attitude, but it was commonly believed in China that the journey of Prince Katsura to St. Petersburg, in the summer, was undertaken for the purpose of discussing plans with respect to the development of Japanese and Russian power in Manchuria.

The revolution brought heavy extraordinary expenses and interfered with the revenues of the government so that the payments on the Boxer indemnity fell into arrears. Moreover, the government was confronted with new claims for damages occasioned to foreigners during the revolution. In attempting to provide a necessary working capital, the government encountered the difficulty that it had few unpledged securities. Russia indeed would have been only too ready to advance money upon special security in northern Manchuria, and loans might have been secured from other powers upon similar special pledges, but it was of course out of the question that the Chinese government should enter into such arrangements. Negotiations were begun

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

with representatives of a syndicate composed of banks of Great Britain, Germany, France, the United States, Russia, and Japan. The demands which the six powers put forward, to control the manner of expending the borrowed money together with the collection of the revenues of the Chinese government, were so strict as to be unacceptable to the Chinese. They therefore attempted various other means of escape from the difficulty. Domestic loans were tried, but it was impossible to raise capital sufficient for the present needs. An arrangement was concluded with a private group, known as the Crisp Syndicate, for a loan of $50,000,000; but as the salt tax, which had already been pledged for the payment of the Boxer indemnities, was to form the security of this loan, it was objected to by the powers, as tending to involve China in bankruptcy. After long and painful negotiations, an agreement was arranged on December 31, by which a loan of $125,000,000, to be issued at ninety-four, is to be furnished China by the six-power group. The demands for financial control have been moderated somewhat and provide for the appointment of a European adviser, the German representative in the group, to the Chinese audit department. As the Chinese budget for the ensuing year amounts to $450,000,000, which includes $15,000,000 for the establishment of the gold standard, and as, like others engaged in financial operations, the Chinese government finds the beginning of the year especially trying, it is plain that assistance such as contemplated could not have been deferred any longer without bringing on disastrous consequences.

FOREIGN RELATIONS OF THE UNITED STATES

The general arbitration treaties which had been negotiated between the United States and Great Britain and France were considered by the senate, and their ratification was advised on March 17, but not without such important modifications as to change their character materially. The provision by which it was left to a joint high commission to determine, in cases of disagreement between the parties, whether or not a difference is subject to arbitration, as involving a justiciable question, was

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

stricken out. The senate therefore reserved to itself the power of determining in each individual case whether the question at issue is to be considered justiciable or not. It is of course to be understood that, even in their present form, the treaties would morally bind the United States to arbitrate any question that is purely legal or plainly justiciable in its nature. To make it clear that certain questions would never be considered as being arbitrable under these treaties, the senate added the following clause:

"*Provided*, That the senate advises and consents to the ratification of the said treaty with the understanding to be made part of such ratification, that the treaty does not authorize the submission to arbitration of any question which affects the admission of aliens into the United States, or the admission of aliens to the educational institutions of the several states, or the territorial integrity of the several states or of the United States, or concerning the question of the alleged indebtedness or monied obligation of any State of the United States or any question which depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions commonly described as the Monroe Doctrine, or other purely governmental policy."

The treaties in this form were not ratified, as it seemed that they did not constitute a sufficiently important advance over the general arbitration treaties already in force.

As a report was current early in the year that Japanese interests were attempting to acquire a coaling station in Magdalena Bay, Lower California, the senate directed an inquiry upon this matter to the department of state. The sole basis of the rumor was found to consist in the attempt of an American, who had become involved in an unprofitable land company in that region, to unload upon some Japanese. Notwithstanding this entirely unexciting situation, Senator Lodge felt moved to introduce a resolution, which attempts to define by anticipation the attitude that the government of the United States would assume, should a situation arise such as had been suspected to exist at Magdalena Bay. The senate resolved:

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

"That when any harbor or other place in the American continent is so situated that the occupation thereof for naval or military purposes might threaten the communications or the safety of the United States, the government of the United States could not see without grave concern the possession of such harbor or other place by any corporation or association which has such a relation to another government, not American, as to give that government practical power of control for national purposes."

Opinion is much divided as to the wisdom of making a declaration of this kind, looking to an entirely hypothetical case. The declaration was not made primarily as an extension or interpretation of the Monroe Doctrine, but as a statement forestalling any situation in which the United States might feel the need of making use of its right of self-defense. It was the latter principle that was emphasized in the discussions.

By far the most important American matter of international concern during the year was the legislation providing for the government of the Panama Canal. There was a strong sentiment in congress in favor of exempting all American vessels from canal dues, and the first formulation of the canal bill contained a provision to that effect. However, in the course of discussion, both international and in congress, the conviction gained that, under the Hay-Pauncefote treaty, which provides for the absolutely equal treatment of all vessels passing through the canal, such a preference in behalf of American vessels would, notwithstanding the special relation which our government holds to the canal, be inadmissible. In its final form the Panama canal bill provided for equal tolls upon all vessels, with the exception that ships engaged in the coastwise trade of the United States shall be entirely exempt. The British government, which had expressed its opinion against the more general exemption of American vessels, continued its protest against the less inclusive provision, on the ground that the wording of the treaty admitted of no exceptions. Objection was also made to the provision in the bill which contemplates the exclusion of railway-owned vessels, if, in the judgment of the interstate commerce commission, the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

particular railway constitutes a line of transportation competing with the canal. A formal demand for a modification of the law, or in default of such action, for arbitration of the matter before The Hague tribunal, was submitted by the British government in December. At the end of the year the American government had not made its answer to this demand.

In behalf of the exemption of American coastal vessels, it was urged by those who supported this policy, that as the coastal trade is restricted by law to vessels under American registry, their exemption from tolls would not constitute a discrimination against other nations. The strongest motive for enacting this legislation, however, was undoubtedly the desire to make it possible for coastal vessels to compete with the railways, with the result of lowering transportation rates throughout the American Union. For this reason the problem appeared primarily one of domestic interest, which ought to be settled according to the needs of our own national life. But though there may be two opinions as to the policy of exempting our coastwise trade, it hardly would admit of any doubt that, under the wording of our arbitration treaty with Great Britain, this matter, which plainly involves the interpretation of a treaty, is subject to arbitration, and that the United States government would deal a serious blow, not only to the cause of arbitration of international disputes, but to its own reputation for fair dealing, were it to decline judicial settlement. The fear that European judges would hold against the United States does not constitute a justifiable motive for refusing arbitration. In the first place, such a view would make all arbitration, except in the most unimportant cases, impossible. In the second place, it is not justified in itself, as, although European nations may desire that American ships should not be exempt from dues, that is a far different thing from responsible jurists deciding that, as a matter of legal interpretation under the treaty, we are bound not to grant such an exemption. Though Europe may not be disinterested, we could certainly count on an impartial tribunal. If in the opinion of fair men we have made a promise, we are bound, until we have secured a release. Such are the views advanced by those who

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

believe that the United States, in justice to itself, cannot afford to refuse the demand of arbitration in this case.

As conditions in Mexico continued unsettled throughout the year, the American government was confronted with many delicate problems. Though frequently American citizens having interests in Mexico suffered loss, and though their personal security was at times threatened, the government refrained from any action in the nature of intervention. It confined itself to having the frontier guarded by troops, so as to prevent evasion of the neutrality laws. In order to assist the Mexican government in its efforts to gain and maintain control over revolutionary disturbances, Mexican federal troops were allowed to pass through American territory in Texas; a formal protest against this permission was, however, entered by the governor of that State. In March, congress passed a joint resolution enabling the President to prohibit the shipment of arms or munitions of war to any American country where conditions of violence may exist. Following out this important extension of our neutrality laws, the President, on March 14, issued a proclamation prohibiting the export of arms and munitions of war to Mexico. In line with this effort to prevent the promotion of revolutionary acts from the soil of the United States, the senate ordered an investigation, to ascertain whether American capital had been employed in fomenting revolution in Mexico.

In Central America the disturbances and troubles to which that region is accustomed, continued to manifest themselves during the year. The treaties providing for the making of loans and for the appointment of financial advisers in Honduras and Nicaragua, were not ratified by the senate. The state department, however, continued its efforts to carry out a policy in line with these conventions. A loan of $1,500,000, to be increased later to $15,000,000, was arranged for Nicaragua, and a national Bank of Nicaragua was organized. At the request of the government of that republic, a collector general of customs was nominated by the state department. When during the summer a serious revolt broke out, American marines were landed, to protect citizens of the United States and their interests. Various

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

engagements took place, but order was rapidly restored. In Honduras efforts were made to arrange for a loan of $6,000,000, with a New Orleans syndicate. The British government asked the support of the United States in protecting the interests of British holders of Guatemalan securities. Accordingly the American government suggested to Guatemala the desirability of restoring its credit and making arrangements for a loan, to satisfy foreign creditors and to place the development of the country on a secure footing. In Santo Domingo the action of the American fiscal adviserships continues. Boundary controversies with Haiti and revolutionary movements along the boundary, induced the American government to send a commission, which established a provisional boundary line, and arranged for the security of the custom houses. In May, when considerable unrest manifested itself in Cuba, and there seemed to be danger of a revolutionary movement, American marines from the naval station of Guantanamo were ordered upon Cuban territory, for the purpose of protecting American interests, without any desire of undertaking at the time a renewed intervention in Cuban political affairs. During the year an arrangement was also made with the Cuban government, by which, in exchange for the American rights at Bahia Honda, the Cuban government granted additional territory to be added to the area of the naval station at Guantanamo.

LATIN-AMERICAN AFFAIRS

A development as important as it is welcome was the *rapprochement* between Chili and Peru. These countries, which have continued in strained relations for over thirty years, seem to be in a conciliatory mood. The election of Sr. Billinghurst, a noted political leader, as president of Peru, was favorable to progress in this matter, as he had in the past stood for a settlement of the outstanding difficulties. A preliminary agreement was arrived at, by which the taking of the plebiscite, through which the ultimate sovereignty of Tacna and Arica is to be determined, will be deferred for twenty-one years, the two countries meanwhile entering upon closer commercial relations. The boundary

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

controversy between Ecuador and Peru has also received a satisfactory settlement, so that at the present time the only Peruvian boundary that remains in litigation is that which she has in common with Columbia. Diplomatic relations between Agentina and Bolivia, which had been interrupted since the Argentinian president, in the Peruvian boundary arbitration, pronounced a judgment unwelcome to Bolivia, were restored, so that here, too, a normal situation was created. Paraguay, which throughout the year was torn with internal conflicts, for a while broke off diplomatic relations with Argentina. There is a standing cause of complaint on the part of Paraguay, because of the demands of the Argentine Republic under the indemnity which was imposed upon Paraguay after the war of 1855 and which is still unpaid. The more direct cause of the present difficulty, however, lay in the disturbance created by the revolution, and the resulting complaints and reclamations of Argentinian subjects. The interruption of relations, however, lasted only for a short time.

World-wide public interest and apprehension were aroused by the report issued in July by Sir Roger Casement concerning atrocities committeed in the rubber region of eastern Peru. On account of the hegenomy in American affairs which it has assumed through the Monroe Doctrine, the government of the United States was called upon to remonstrate with Peru, and to take steps to protect the natives against cruelties. In order to get more complete information, the American government detailed a consular official to make a special investigation on the spot. Meanwhile the Peruvian government protested that the reported outrages had been committed years ago, and that notwithstanding the difficulties due to the remoteness of the region and to the absence of regular means of communication, it had already taken effective steps to prevent the recurrence of such practices.

The fourth Central American conference held its session at Managua on January 3. Its deliberations and resolutions dealt with the establishment of an united Central American consular service, the improvement of maritime and telegraphic communications, and similar matters of an administrative nature.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

INTERNATIONAL CONFERENCES AND INTERNATIONAL LAW

The international conference for the restriction of the liquor traffic in Africa met at Brussels on January 4. Its discussions dealt with the enlargement of the zone of absolute prohibition, and the increase of taxes upon liquor in the zone within which the sale is permitted. During the same month an international radiographic conference took place at London. The system of mutual labor protection, obtaining between Italy and France, was also further extended in this month. In March, the general assembly of the International Sugar Union met at Brussels, where the convention of 1902 was prolonged, after the settlement of a controversy with respect to the rights and obligations of Russia under this treaty. In May a conference took place concerning the administration of the Island of Spitzbergen, at which Norway, Sweden and Russia were represented. It was agreed that the island was to be administrated jointly as neutral territory, but that the execution of police powers was to be under the charge of a Norwegian commissioner.

An international conference for the unification of the law relating to checks and drafts met at The Hague in June. An international congress dealing with the subject of aërial law, and comprising representatives of Germany, Great Britain, France, Italy and Switzerland met at Geneva in July. It agreed upon additions to the Rules of Paris, in the matter of the application of local law and of the law of the state of origin to the pilots and passengers of air-ships, and considered the extent of the local police power.

On June 26 there convened at Rio de Janeiro the Pan-American commission for the codification of international law, appointed under a convention signed at the third international American conference in 1906. Seventeen states were represented. The commission adopted a number of permanent regulations, and formed six committees, among which the topics of international public and private law was divided. These commissions are to meet at different places (Washington, Rio de Janeiro, Santiago, Buenos Aires, Montevideo and Lima), and are to report the results of their studies and deliberations to a plenary meeting of the commission to be held in 1914.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

NOTES ON CURRENT LEGISLATION

EDITED BY HORACE E. FLACK

New Primary and Corrupt Practices Acts in Minnesota: The former primary law, dating from the sessions of 1899 and 1901, introduced the direct nominating system in this State. It was one of the first comprehensive laws of its kind. Efforts to improve or to emasculate it have not been lacking at any subsequent session, but no essential changes were actually made until the special session of June, 1912. The regular session of 1911 was expected to bring the primary and corrupt practices acts up to date, but it failed to do so on account of dissensions aroused by a bitter fight over the reapportionment act. The last apportionment of senators and representatives was made in 1897. Since that time the northern part of the State and the three leading cities have grown rapidly, while the southern counties have grown very little; some have even declined. The apportionment, which was fair in 1897, has thus resulted in the southern agricultural counties getting an undue power in the legislature, and this circumstance has developed a sectional desire and determination to retain that control. All attempts to adjust representation to correspond to the changes in the distribution of population were blocked. The only act on the subject passed, was a proposed amendment to the constitution limiting the representation of any county in the senate to seven, no matter what its population might be. The object of the amendment was to curb the power of the cities by perpetuating the existing discrimination. The amendment was rejected, however, at the November election.

The failure of the legislature to pass the reapportionment act and other reform measures occasioned much criticism. Rumors and threats of an extra session were rife before the session closed. Additional demands for an extra session to enact a presidential preference primary law were made a year later during the campaign. Finally in May, 1912, after the delegates to the national conventions had been selected, Governor Eberhart suddenly issued the call for an extra session to consider the enactment of new laws on three subjects: reapportionment of representation, the direct primary, and corrupt practices.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

On June 19 the new direct primary, and the new corrupt practices acts were approved and took effect immediately, reapportionment being again defeated. Both the primary law and the corrupt practices act are amendments to the former laws.

The Direct Primary Law. The former direct primary law did not apply to any officer elected at large from the entire State, such as governor or justice of the supreme court. The new act applies to all elected officials, excepting presidential electors, city officials in cities of the third and fourth classes (less than 20,000), township and village officers and members of school, park and library boards in cities of less than 100,000. It applies to United States senators but does not provide for the pledging of members of the legislature to support the winning candidate. It does not authorize a direct vote on the candidates for the presidency. Party committees are to be chosen by the party candidates who are required to convene for this purpose in state, congressional district, county and city meetings soon after the primary election. The law provides for the selection of all the judges, county superintendents of schools and all city officers in cities over 50,000 on separate non-partisan ballots bearing no party designation. Where several offices are to be filled by election at large, the candidates are required to file in classes. The non-partisan ballot for city officers had been proposed by the home rule charter commissions in both Minneapolis and St. Paul and was generally approved, excepting by the Socialist party. This party had come within a few hundred votes of electing its candidate for mayor of Minneapolis in 1910. It was practically certain of winning in 1912, provided there should again be three candidates for mayor. The non-partisan ballot feature of the law was favored by many members of both the old parties, because it was designed to limit the contest in the regular election to the two leading candidates, receiving the highest vote at the primary. This, it was believed, would prevent a three-cornered contest. One section of the law permits candidates to be nominated by petition, provided they have not taken part in the previous primary and provided the voters signing such petitions have not so participated. The possibilities of this provision were not fully realized until the Socialists secured a ruling from the attorney-general advising them that the names of their candidates would be placed on the election ballot if proper petitions were filed according to the terms of the act. By not taking part in the primary they hoped to ensure a three-cornered contest for mayor of Minneapolis and win against the two leading candidates selected therein.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

They were out-maneuvered, however, because one of the two candidates selected at the primary was induced to withdraw from the contest shortly before the day of election. Had the opposition vote been divided between three nominees the socialists would have carried the election, since their candidate received 19,963 votes to 22,384 for the winning candidate.

Another feature of the law, which also had a political significance, did not work exactly as its friends expected that it would. At the time of the special session it was generally foreseen that Governor Eberhart could easily secure a renomination by a plurality vote, but that he could not secure a majority vote in the primary. His opponents in the legislature, therefore, favored a second choice feature. According to this provision a voter may indicate a second choice on any of the political party primary ballots. In counting the vote, if no candidate has received a majority of all the first choice votes cast, the candidate having the least first choice votes is dropped and his second choice votes are added to the votes of the candidates indicated on the ballots. This process is continued until one candidate has a clear majority of first and second choice votes added together, or until there are but two left when the one having the most votes wins.

The official returns of the State canvassing board found that the vote on governor in the primary was as follows:

	FIRST CHOICE	SECOND CHOICE					
		Eberhart	Falk	Gordon	Lee	Spooner	Young
Eberhart....	62,402		1,372	1,632	3,594	1,927	3,785
Falk.....	6,536	671		221	363	178	260
Gordon.....	11,927	555	259		1,699	449	1,138
Lee.....	40,571	2,326	835	3,081		1,665	6,799
Spooner....	12,233	769	235	420	983		878
Young.....	30,398	2,160	485	1,761	5,497	1,104	
Total.....	164,067	6,481	3,186	7,115	12,136	5,323	12,860

Total second choice 47,101—or 22.6 per cent of first choice.

The small second choice vote was partly due to the incorrect returns made by the returning officers. In Minneapolis alone, there were 77 precincts in which the second choice figures had been erroneously given, because the law was not understood. The district court refused an application of the Hennepin County canvassing board to permit the ballots to be recounted. It was evident that the results of the primary

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

would not be changed by a complete recount except in a few cases. In these recounts were allowed on application of the contesting candidates.

Another reason for the small second choice vote was the novelty of the scheme. The voters did not fully understand it, simple as it seems.

After all the main difficulty was one which seems to be inherent in preferential voting. Preferential voting is in essence an attempt at attaining a psychological result by a refinement upon the election process—the attainment of a majority which sometimes does not exist. Many voters had but one choice for governor. It was that one or none for them. This is more apt to be the case where men not measures are the issue. In this election, the second choice figures did not change the results at all. The candidate having the largest first choice vote won. No manipulation of the figures could bring out any other result than that the majority of the voters of the State were not united on any one man for governor. That is the psychological fact which the first choice vote indicates and which was evident throughout the campaign.

The vote on congressman at large was very similar. The total first choice votes were 145,623 and the second choice numbered only 31,217 or 21.4 per cent of the first. In this contest the candidate with the largest plurality of first choice votes was elected, as in all other instances examined. Had the voter been obliged to indicate a second choice to make his ballot valid, a candidate with a minority of first choice votes might have been elected, to be sure, but the resulting majority would have been largely accidental and wholly artificial.

The Corrupt Practices Act. The original corrupt practices act of this State dates from 1895. This act, while formidable in appearance, was in practice more or less of a joke. Having been enacted some years before the direct primary law, it did not expressly mention "primary elections," but simply "elections." The supreme court ruled that the act applied only to the regular election. This decision practically nullified the act.

But the act of 1895 was inherently defective, because it did not provide any adequate means for its enforcement. It merely provided that it was the duty of the attorney-general to enforce the law. In case he neglected to do so any citizen or the defeated candidate might require the attorney-general to institute proper proceedings against the incumbent of an office for violation of the act. Another attorney might even be employed to assist in prosecuting the case, but in all such proceedings the party bringing the action was obliged to file a bond to cover

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

all the costs of the litigation. In case the charge was sustained by the courts, the offending official was to be dismissed as a usurper and the office awarded to the candidate receiving the next highest vote. If the citizen lost his case, he was to stand all the costs. Naturally, this sort of a provision did not put a premium on law enforcement. The necessity of punishing the defeated candidate for violations of the act seems to have been entirely overlooked. In many cases he did not even file a statement of expenses. While the successful candidates generally filed such statements, there was no regular form prescribed and the evasions of the law became notorious. There was a limit set upon a candidate's expenditures, but there was no limit on the expenditure of party committees. As a result the candidate might file a statement indicating his expenses to have been a few hundred dollars, while it was known to many that the candidate's friends had spent as many thousands in his behalf. The corrupt practices act was therefore a great disappointment.

The new law is a different measure. It applies to all elections and primaries and contains stringent provisions for its enforcement. The candidate, his agent and party committees are required to file monthly statements of expenses during the campaign and on the Saturday prior to any primary or regular election. These statements must be fully itemized and made out on official blanks. In case any candidate fails to comply, it becomes the duty of the filing officer to send him a written notice and file a copy with the county attorney. If the law is not complied with within ten days after the county attorney warns the offender he is required to prosecute the delinquent candidate. The failure of the county attorney to perform his duty is a misdemeanor on conviction of which he forfeits his office. Any 25 voters or any defeated candidate may contest a person's right to a nomination or to an office on petition to the district court. Any citizen may employ counsel to assist the county attorney in prosecuting a case under the law. A standing appropriation of $10,000 for the enforcement of the act is allowed the attorney-general, biennially.

The expenses of the candidate are limited to seven items: personal expenses for travel and communication, hall rent, hire of speakers and musicians, printing of campaign literature, copying poll lists, canvassing voters and for challengers, filing fees and campaign advertising. The expenses of his personal or campaign committees are also specified under seven similar heads. The maximum amounts allowed for each office are fixed in the act and range from $7000 in case of a candidate

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

for governor, $3500 for other state officers, $600 for state senators, $500 for representatives, to one-third of the first year's salary in case of local officers.

Newspapers and magazines are required to label all paid articles of a political nature as "Paid Advertisements," and, before publishing any such advertisement or editorial, must file with the secretary of state a sworn statement giving the name of the owners, or in case of corporations, the stockholders of the publication. Any candidate owning a paper or periodical or owning an interest in one must file a statement with the county auditor specifying the nature of his interest or control before campaign articles or political advertisements can be inserted therein. Publications are not permitted to solicit payment from candidates for publishing articles in their behalf, nor may any person offer to pay a publisher for space except for advertisements labeled as required by law. Soliciting of contributions from candidates or committees, for charitable or religious purposes, asking for subscriptions to organizations, or offering to sell tickets to entertainments are declared illegal excepting under certain proper circumstances.

All campaign literature must bear the name of the author. No person or partnership can spend more than $50 for political purposes during any campaign except through a regular political committee. All contributions by corporations are prohibited. Treating and providing entertainment, betting, using undue influence over voters on the part of employers or others, and, on the day of election, payment for personal services, furnishing vehicles, displaying buttons or other campaign insignia, distribution of election cards are strictly prohibited.

The first noticeable effect of the new corrupt practices act was a complete change in the character of election day. The usual election commotion such as open soliciting about the polls, and on the streets, the rushing of voters to the polls in carriages bearing the candidate and party banners, all disappeared as if by magic. Instead there was quiet and order everywhere, the new law having evidently produced a wholesome respect. The people approved the change and the new order has come to stay.

The courts have already been called upon to construe the law and some loopholes have been found in it. The supreme court in the case of Harrison et al. vs. Frank E. Nimocks, 137 N. W. Rep. 972, upheld the ruling of the district court of Hennepin County to the effect that a candidate, who has no political committee, is not guilty of violating the act if persons without his knowledge and direction expend more

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

on his campaign, than the maximum allowed. This interpretation of the law unfortunately opens the way for evasions of some of its most important and seemingly drastic provisions. In the case of James McIntosh recently elected treasurer of Mahnomen County, Judge Grindeland has just ruled that a candidate who knowingly permits another person to solicit votes in his behalf by serving drinks and tobacco is guilty of a violation of the act and forfeits his office, but not to the next highest candidate.

WM. A. SCHAPER.

Inspection of Hotels and Public Lodging Houses: During the past half dozen years there has been a widespread and well defined attempt on the part of the general assemblies of the various States to secure legislation designed to promote and safeguard the public health, prevent the dissemination of disease, and secure a reasonable degree of comfort to the traveling public by providing for the regulation, supervision, oversight and periodical inspection of hotels, inns, and public lodging houses.

Prior to 1907 a considerable quantity of legislation had been enacted on this subject and the fragmentary and inadequate provisions of these laws if they had been consolidated would have constituted a tolerably complete and satisfactory statute, but no such judicious mingling of the ingredients had been attempted until that year. California had passed her so-called "cubic-air law" as early as 1876, restricted in its application to the sleeping apartments of lodging houses within the limits of incorporated cities. Fully twenty years elapsed before the next two States, Pennsylvania and Rhode Island, entered the field, and then followed Florida, Illinois, Montana, Ohio, Utah and Vermont at average intervals of approximately a half dozen years and completed the legislation to 1907. These laws whose enactment was distributed over the space of a third of a century, were designed to provide for the sanitation and cleanliness of hotels, inns, restaurants and public lodging houses; to protect the traveling public from adulterated food stuffs; to secure an adequate supply of fresh air in sleeping apartments, and its free and unobstructed circulation therein; to regulate plumbing; to provide for the disinfection of bedding and furniture; to authorize a rigorous inspection of the water supply; and to require the prompt removal of waste, garbage and slops. The authority to abate such nuisances is vested in the various State and local boards of health, coöperating, or acting independently, or in the several state dairy and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

food commissioners. Examinations are usually undertaken only on information or complaint of a patron or other interested person. Illinois requires a periodical inspection of hotels, inns, taverns and boarding houses in cities having a population of 100,000 or more. The laws of Pennsylvania and Rhode Island provide for the issuance of a license or certificate when the conditions in public lodging houses are found to be satisfactory, although the Rhode Island law applies only when ten or more people are accommodated.

From 1907 to 1912, inclusive, eighteen States have enacted such laws. The two Dakotas were the pioneers in the field and passed their laws in 1907, but materially amended them in 1909; Oklahoma passed her law in 1908; Iowa, Kansas, Missouri, Oregon and Washington in 1909; Mississippi and Virginia in 1910; Alabama, Connecticut, Florida, Idaho, Minnesota, Nebraska and Wisconsin in 1911 and Tennessee in 1912.

The laws of Idaho, Kansas, Missouri, Nebraska, North Dakota, Oklahoma, Tennessee, Virginia and Washington[1] are substantially identical and their consolidated provisions indicate and illustrate the drift of public sentiment on this subject. Compactly stated these laws provide for the periodical inspection of hotels, inns and public lodging houses by authorized state inspectors to insure scientific sanitation, the cleanliness of towels and bedding in such manner as to contribute to the comfort of the guests and to prevent the transmission of disease, and to provide for the exclusion of disease-breeding insects from dining and sleeping rooms.

The supervision of hotels, to insure the enforcement of these regulations, is entrusted to state and local boards of health and fire marshals, to the food and drugs commissioners or to hotel inspectors appointed biennially or quadrennially by the governor. These officers are dependent for their compensation on fees or on salaries ranging from $1500 to $2000 per year. These officers are required to inspect hotels annually or semi-annually, unless there is a change of proprietors, or on a written complaint signed by three or more patrons. The inspection fee, dependent on the number of rooms in the hotel, varies from $2.50 to $25 per year. Certificates are issued where conditions are found to be satisfactory and a set of books is kept for public inspections.

[1] Idaho, Laws 1911, p. 620; Kansas, General Statutes, 1909, p. 893; Missouri Revised Statutes, 1909, ch. 57, sec. 6716 ff; Nebraska, Laws 1911, p. 281 and Anno. Statutes, 1911, 9840x3 and 9840x4; North Dakota, Laws 1907, p. 188, and Laws 1909, p. 165; Oklahoma, Laws 1907–08, p. 434; Tennessee, Laws 1911, p. 132; Virginia, Laws 1910, p. 341; Washington, Codes and Statutes, 1910, sec. 6030 ff.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

All hotels, inns and public lodging houses must be well drained, plumbed according to established sanitary principles, kept clean, sanitary, and free from unwholesome effluvia, and all water closets must be frequently and properly disinfected.

Beds, bunks, cots and other sleeping places must be provided with pillow slips and under and top sheets; the under sheet must be of sufficient size to completely cover the mattress; the top sheet must be as wide as the mattress, long enough to reach the entire length of the bed, and must be folded back over the other bedding at the upper end for a sufficient distance and in such a manner as to prevent the occupant's inhaling bacteria from germ-infected covering and protect him from contact therewith. Both sheets and pillow slips must be made of white cotton or linen, and must be changed after the departure of each guest. Quilts, blankets and other covering must be at least six feet in length and of sufficient quality and quantity. Beds, bedding and sleeping rooms used by transient guests must be kept properly aired, and must be disinfected at least once every three months, or oftener if the inspector requires it; the carpets therein must be taken up and thoroughly cleaned once or twice each year, and rooms and bedding infected with contagious disease germs, vermin or bed bugs, must be thoroughly fumigated and not re-occupied sooner than forty-eight hours after the disinfection. Each guest must be supplied with clean, individual towels both in his private room and in the public wash room. The use of "roller" or "endless" towels in public wash rooms is forbidden.

Kitchens, dining rooms, and all places where food is kept or stored must be kept clean and sanitary, and the use of rusted tin or iron ware in cooking is prohibited. Drinking water must be free of disease germs, and if taken from tanks or cisterns they must be securely screened with wire gauze to prevent the entrance of flies, mosquitoes or other disease breeding insects. The floors, closets, cupboards, pantries, walls and ceilings of kitchens must be kept clean, wholesome, free from dirt, dust and grease.

All doors, windows, and other openings in hotels and kitchens must be properly screened during the warm months in such manner as to exclude flies and insects therefrom.

The laws of South Dakota, Iowa and Minnesota[2] are much briefer and merely provide for the annual inspection of hotels by itinerant inspectors. In Oregon, Mississippi, Alabama, Florida, Connecticut

[2] South Dakota, Laws 1907, p. 346, and laws 1909, p. 282; Iowa, Laws 1909, p. 161; Minnesota, Laws 1911, p. 265.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and Wisconsin,[3] there is no periodical inspection of hotels, but otherwise the provisions of the laws are the same as those of the other states.

CHARLES KETTLEBOROUGH.

Pensions for Mothers: An announcement in the public press that the Russell Sage Foundation of Chicago is to attack the Illinois "mothers' pension law" of 1911, on the grounds that it is so badly drawn and of so sentimental rather than practical a nature that it has been abused in its application, has been difficult to administer justly and has had harmful social results, has drawn attention to this law, and to the other ones of a similar purpose—the Missouri law of 1911, and the law adopted in Colorado, at the November, 1912, election under the initiative and referendum.

The Illinois statute is in reality an amendment of the juvenile court law of 1907. It is intended for the relief of either father or mother, or both parents, of boys under seventeen and girls under eighteen, when they are so poor as to be unable to care for their child or children, and when it is for the welfare of the child or children, to remain in the home. It is left with the court to decide on these two conditions—the poverty and the advisability of allowing the child to continue in the family, as also, on the amount of money necessary to enable the parent or parents to care properly for their child. The county board pays out to the parents such sums as the court decrees. It is said that in Chicago in a few months, the applicants wishing to avail themselves of this pension, numbered between 600 and 700, and that already between $8000 and $10,000 is being paid out monthly to poor parents. The report of the expert investigation will be received with interest, and particularly so by all social workers.

The new Colorado law amending the dependent and neglected children act of 1907 is similar in its main provisions to the Illinois law, the court deciding the advisability or need of a pension for the parent or parents, and the amount to be paid by the county board or similar city authorities. In Colorado, however, the money may be paid over to some person other than the parents if it seems for the best interest of the child, and, in place of money, the equivalent in supplies and assistance may be granted. Officers, the details of whose number,

[3] Oregon, Laws 1909, p. 65; Mississippi, Laws 1910, p. 157; Albama, Laws 1911, p. 44; Florida, Laws 1911, p. 141; Connecticut, Laws 1911, p. 1356 and 1505; Wisconsin, Laws 1911, p. 505.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

general duties and powers, compensation, limitations, etc., are decided as those of probation officers, are appointed by the juvenile or county court to investigate, visit, keep records and reports of cases requiring relief under this act and the clerk of the court submits semi-annually to the county board a report of all such cases and an estimate of the sum necessary for their relief. For the further maintenance of family life for the child, the law includes two provisions: one, that children from the State Home for whom it has not been possible to secure adoption, may be boarded out in suitable family homes, the funds for such a system to be appropriated by the general assembly; and the other, that the proceeds of labor performed by men convicted of non-support of women and children, in local work houses, state penitentiary or state prison, be applied to the state, county and city funds respectively, out of which the expenses of this act are met.

The Missouri law, drawn so as to apply only to Kansas City, is for the benefit of poor mothers who are widows or whose husbands are convicts; who have children under fourteen years of age to care for; who would, without this financial aid from the county, have to work away from their homes; who are proper persons to bring up their children; and who have resided in the county for at least two years. Such a mother may receive for one child, when it is necessary to save him from neglect, not to exceed $10 a month, and for each additional child, not to exceed $5 a month, the allowance granted for any child to cease when he reaches the age of fourteen and to cease or be modified before he reaches such age at the discretion of the court. In case of insufficient funds—the expenditure for these pensions is limited to $12,000 a year—the juvenile court shall select the most urgent cases. A penalty for procuring or attempting to procure any allowance as provided in this act on false pretenses is attached. Any taxpayer may at any time file a motion to set aside any judgment in regard to such a pension as entered on the records of the juvenile court and, after a hearing, a new order may be made by the court, granting or refusing the allowance, from which order an appeal may be made.

Two other laws were passed in 1911, which though not, strictly speaking, pension laws, should be mentioned in this connection. In Michigan when the services of a child are absolutely required to assist in his own support or that of others legally entitled to his labor, the board of education of the school district, on the recommendation of the truant officer, who has investigated the case, grants relief to the family necessary to enable the child to attend the school, not to exceed

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

$3 a week for one child or $6 a week to one family, and, in addition, school books are furnished. Investigations of the surroundings of the child are made monthly by a school officer or by the juvenile court, where such court exists, and reported to the school board, to whom, also a report is made by the child's teacher, on his progress in school.

In California, a 1911 amendment to the penal code, somewhat similar to the provision in the Colorado law, provides that prisoners committed to the county jail for abandonment or non-support of wives or abandonment or neglect of children, be compelled to work on the public roads or other public work and their pay, fixed at $1.50 a day, paid to their wives for their support or that of their children.

How far private charitable organizations have gone in helping families financially for the sake of the child, it is, of course, impossible to ascertain, but it is an interesting fact that the Children's Aid Association of Indianapolis, is accomplishing in a small degree for that city what the Michigan law aims to do. The Association investigates cases where the child has to help support the family, recommends those worthy of assistance and private citizens provide an allowance for the family so that it can dispense with the child's earnings and he may go to school.

ETHEL CLELAND.

Tax Legislation of 1912—Election Results: Constitutional amendments relating to taxation were submitted to the voters of seven States in November.[1] Some of these amendments were far-reaching. In only three States, however, were any amendments adopted and these were relatively unimportant.

In Massachusetts, the people approved an amendment giving authority to the legislature "to prescribe for wild or forest lands such methods of taxation as will develop and conserve the forest resources of the commonwealth." Prior to the adoption of this amendment, it had been held that the constitution did not permit classification of property for taxation at different rates, although apparently the legislature could grant entire exemption to any class.

In Louisiana, out of the long series of amendments designed mainly to provide for separation of state and local revenue, only two minor ones were adopted. One amendment exempts the legal reserve of domestic life insurance companies; the other amendment exempts the

[1] See article on Tax Measures of 1912 in THE AMERICAN POLITICAL SCIENCE REVIEW for November, 1912, p. 581.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

capital of companies engaged in loaning money upon farm mortgages at interest rates not to exceed 6 per cent.

In Oregon, an amendment adopted in 1910 was replaced by another amendment which, in fact, repeals certain provisions of the amendment of 1910. That amendment provided that no poll or head tax should be levied, that no bill regulating taxation or exemption throughout the State should become law until approved by the people at a regular general election; that none of the restrictions of the constitution should apply to tax measures approved by the people; and that the people of the several counties were authorized to regulate taxation and exemption within their several counties. This section has now been revised to read simply: "No poll or head tax shall be levied or collected in Oregon. The legislative assembly shall not declare an emergency in any act relating to taxation or exemption." The local option provision is repealed as is also the provision that constitutional restrictions should not apply to tax measures approved by the people.

At the same election the people of Oregon adopted, by a majority or more than 8000, a law exempting from taxation all household furniture and personal effects in use in homes. As the constitution provides that all property must be taxed uniformly, and amendments designed to permit classification or exemption failed by a small margin, it is probable that this law will be ineffective.

A. C. PLEYDELL.

The English Franchise and Registration Bill: The development of the parliamentary franchise in England has been historical rather than logical. The great reform measures of the past century extended the application of the franchise without destroying the old franchise laws. The result is that the present franchise law is complicated and obscure. It must be remembered that no single uniform, and universal qualification for voting exists in England. A man votes if he meets any one of several different qualifications, and he has as many votes as there are qualifications which he has satisfied. Since each of these qualifications requires the possession of some form of property, wealth rather than numbers, is emphasized.

The Liberal party has for the past thirty years been strongly in favor of restricting each man to one vote, and the abolition of plural voting has been an article of the Liberal creed. That a man should have more than one vote, appears to them, a violation of the principle of political equality. Another explanation of this demand for the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

abolition of plural voting is to be found in the fact that most of the men who have more than one vote are the Conservatives. In 1906 the Liberal ministry brought in a bill to abolish plural voting. This measure was passed by the house of commons but rejected by the lords.

The government have a bill before the commons in this session to effect the purposes of the rejected measure. This is the franchise and registration bill. Three important principles are embodied in this bill. It provides for manhood suffrage, abolition of plural voting, and the abolition of the university vote and representation.

Plural voting is altogether abolished by denying to anyone the right to register in more than one constituency. All the existing qualifications for voting are swept away, and electors will hereafter become qualified by residence or occupation and in no other way. The qualifying period is limited to any continuous period of six months' residence.

Penalties of a fine of £200 or imprisonment for one year are attached to a violation of the law. It is made the duty of the voter to see that he is not placed upon more than one register. The registrar will ask the voter if he is qualified elsewhere, and if the information is refused, his name will be struck from the list. The voter will be asked to disclaim all votes which he does not care to exercise. In case of a violation of the law the burden of proof rests upon the accuser. The bill removes from the present register some 525,000 plural votes.

Registration is provided for by imposing upon the town clerks of the boroughs and the clerks of the county councils the duty of keeping and publishing corrected lists every month. Information concerning removals and deaths will be furnished to the clerks by the overseers and registrars. Any one may get his name upon the list by informing the registrar of his residence, and his name will be registered one month after the termination of the qualifying period. Objection to the entry of any name will be heard by the county courts after seven days' notice. The revising courts are abolished and their functions transferred to the county courts. The machinery of the bill is made applicable to local government elections.

The university vote and representation are abolished as being inconsistent with the principle of one man, one vote. From the register the bill removes about 4900 university votes.

It is estimated that the bill will add to the electorate approximately 2,500,000 new voters. Should the suffragettes succeed in getting the bill amended so as to strike out the provision relating to manhood suffrage, the addition would amount to 10,500,000 women voters. That

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

such an amendment would pass the house of commons without an appeal to the country by a general election is scarcely credible.

The principle of one man, one vote has a corollary of one vote, one value. Logically the ministry should have brought in a companion bill relating to redistribution. The last redistribution of the seats in the commons was in 1885, and since that time gross inequalities in the population of the electoral districts have arisen. Some districts are fifteen times as large as others. The failure of the government to bring in such a bill may be explained on two grounds. The first reason is that the business of parliament is already very much congested and another measure would have only added to the confusion. The second explanation lies in the fact that with the passage of the home rule bill, redistribution will be greatly facilitated for by the terms of that bill the Irish representation in Parliament is reduced to forty-two members instead of the one hundred representatives it now possesses. However it is the intention of the government to bring in a redistribution bill before the next general election.

ROCKWELL CRESAP JOURNEY.

The Welsh Disestablishment Bill: One of the ministerial proposals before the house of commons in this session is a bill to disestablish and, in part, to disendow the English Church in Wales. Despite the contentious nature of the Irish home rule bill, the Welsh disestablishment bill has made fair progress. Little doubt seems to exist that the bill will pass the commons. However, its success in the house of lords is not so assured. It is freely predicted that the bill will be thrown out by the lords. Under the parliament act of 1911, this means that a period of two years must elapse before it can become law. And the chances of the bill of ever reaching the statute book depends upon what happens in the country during this interval.

The demand for disestablishment comes mainly from the dissenters and from the Liberal party. For a number of years disestablishment has been one of the cardinal principles of the Liberals. Under Gladstone the Liberals disestablished the Irish Church in 1869. The Newcastle program of the National Liberal Federation in 1891 contained a clause strongly advocating Welsh disestablishment. During the Campbell-Bannerman ministry a royal commission was appointed, in 1905, to investigate and report on the Established Church in Wales. It reported in 1910, and this report has had much influence in bringing forward the present bill. Since 1902 the Free Church Federation has

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

been actively associated with the Liberal party, while the Church has been more or less closely affiliated with Conservatives. Thirty-one out of thirty four Welsh members in parliament have been returned at successive general elections in support of disestablishment and disendowment.

For Wales the claims for disestablishment are of weight. So rapid has been the growth of dissent in the nineteenth century that the Established Church now comprehends within its membership approximately only one-fourth of the religious life of the principality. The combined membership of the dissenting bodies is nearly three times as large as that of the established Church.

The supporters of disestablishment contend that an established church to justify itself, must not only comprehend within its fold a much larger percentage of the communicants than any other church, but it must also be sympathetic with, and reflect, the current religious conceptions and aspirations. It is denied that the Established Church meets either of these requirements.

On the other hand, the Church party finds the justification of the Church as a state institution in that it is a corporate national recognition of the divinity of the Saviour. To disestablish the Church means that the nation as a nation ceases to recognize such divinity. If disestablishment alone were proposed, Liberal churchmen would probably favor the bill for they are eager to free the Church from state interference. Since the bill, provides also for disendowment, opposition to it as a whole is necessary to secure the rejection of the disendowment features.

The advocates of disendowment assert that the Established Church has received a large part of its property through parliamentary grants because of its then existing national character. Whenever the Church loses its national character, it becomes the duty of parliament to divest the Church of this property, and to devote it to public purposes. These purposes are primarily education and charity.

The Church bases its titles to endowments on the triple tie of original donation, prescription, and present uses made of them. It is admitted the ancient endowments were not originally given for the propagation of Anglican doctrines. However, the Church asserts that its title is valid against all except Roman Catholics, and it is not Roman Catholics who are now seeking to disendow the Church. Further argument is made to the effect that the parochial organization of the Church is of inestimable value to the poor of Wales.

The bill, similar in its general provisions to the Asquith bill of 1909,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

provides for disestablishment within one year of date of passage by abolishing the jurisdiction of the Archbishop of Canterbury within the four Welsh dioceses now a part of the Province of Canterbury. Ecclesiastical corporations within these dioceses are dissolved and their jurisdiction abolished. The Church is given power to hold synods for its future government.

Disendowment is secured by depriving the Church of the revenues derived from endowments strictly national in character and devoting this income to general national purposes. The total annual income of the Church from endowments is £260,000. It is proposed to deal with this sum on the principle of origin. To begin with, the Church is to have an income of £87,000 a year as a minimum. This sum is left to the Church unimpaired. In addition to this, every existing incumbent will continue to receive his present stipend out of the endowments to the Church as long as he retains his office. The result will be that, upon disestablishment, the Church will not be immediately seriously affected, but its revenue will gradually decrease as existing life interest disappear. The Church is disendowed of an income of approximately £173,000 a year, subject to existing life interest, and this sum is to be gradually restored to definitely national purposes. Permission is given to the ecclesiastical commissioners and the governors of Queen Anne's Bounty to continue their contributions to the Church. With these additional sources of revenue the total income of the Church in Wales, after disendowment will amount to at least £180,000.

To carry out these provisions, the bill contemplates the creation of two bodies. One of these is to be known as the Welsh commissioners, whose duty it is to receive the existing Church property and to allocate, and distribute it. These commissioners will hand over the sum of £26,700 a year, now paid for the maintenance of the Welsh bishoprics and chapters, to the University of Wales; and this will be divided between the colleges, the museum, and the library. The commissioners will transfer the remainder of the income available to the councils of those counties in which the land is situated, and from which the tithe was derived. These county councils will make schemes for charitable or public purposes of either general or local utilities. The life of this body of commissioners is fixed at three years, but it may be extended to five.

The other body contemplated is a representative body of the Church, to whom will be transferred all cathederals, churches, chapels, palaces, deaneries, and parsonage houses. To this body will also be transferred all the glebe, subject to the payment of so much of it as represents

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ancient endowments. The Welsh commissioners will hand over to this representative body all modern endowments. This representative body will stand in a fiduciary character to the Church.

The position of the Anglican Church in Wales will be very similar to that of the Irish Church and the Churches in the dominions and colonies, no one of which is established, and all of which enjoy close ecclesiastical relationship with the Established Church in England. Disestablishment gives to the Welsh Church a place in the sisterhood of free churches.

ROCKWELL CRESAP JOURNEY.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CURRENT MUNICIPAL AFFAIRS

WILLIAM BENNETT MUNRO

Last summer the Massachusetts legislature appointed a recess committee to make a study of the general subject of municipal finance and to bring forward recommendations for improvement in the financial methods of Massachusetts cities and towns. The committee has made a voluminous and careful report in which every branch of the subject is thoroughly examined. Some of the recommendations are of more than local interest and significance. The committee recommends that the statutory limit which has been imposed upon municipal tax rates of Massachusetts for a long time, be removed in the case of all cities and towns except Boston. It is pointed out that this statutory limitation has not in general served the interest of economy but that on the whole it has merely impelled municipalities to raise money by loans for expenditures which should properly be defrayed out of annual taxes. The report recommends that henceforth the annual budget in all cities of the state should be prepared by the mayor in consultation with the heads of the various city departments. It is proposed that city councils shall have the right to reduce any item in this budget but in no case to insert new appropriations or to make increases. This is the arrangement now existing in Boston by virtue of the charter amendments of 1909. It is further urged that the policy of borrowing by long-term bonds and of providing sinking funds to meet these bonds at maturity be abolished in all Massachusetts cities and towns. The committee strongly recommends that only serial bonds be issued in the future. In support of its recommendation, attention is called to the fact that a great many cities in Massachusetts have large deficiencies in their sinking fund accounts, these funds having frequently been used for current purposes. Attention is also drawn to the fact that some cities which have received trust funds by gift or bequest with the understanding that the money should be held for the benefit of the city poor or for some other designated purpose, have used up these funds for everyday expenses. The committee recommends that these funds be immediately restored by appropriations in the annual budgets of the next few years and that henceforth trust funds be deposited only in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

savings banks or invested in securities which are legal investments for savings banks. The report contains in all thirty-two specific recommendations and is accompanied by drafts of legislation necessary to carry these recommendations into effect. The whole constitutes a very valuable contribution to the general subject of municipal finance.

The proposed new charter for Los Angeles was defeated on December 3, by an overwhelming vote, the popular decision against the charter being more than two to one. A great deal of care had been expended in drafting the document which provided in general for a city government of the commission type, a short ballot, the initiative, referendum and recall, together with civil-service provisions of a very advanced nature. The charter election came at a rather unfortunate time, being preceded by two state-wide primaries and a bitter national campaign. A great many voters failed to come to the polls and those who did were not in many cases fully informed concerning the provisions of the charter. Some of the leading newspapers of the city, including the *Times* and the *Examiner*, strongly opposed the charter, and a great deal of popular opposition was developed against the civil-service provisions in particular.

At the recent general election in St. Louis, the charter amendment providing for the initiative and referendum was adopted by 266 votes in excess of the three-fifths vote required. Under this amendment, 15 per cent of the registered voters may require any proposed ordinance or charter amendment to be either passed by the assembly or submitted to the voters. On petition of 25 per cent, a special election must be called. No franchise for any public utility becomes effective except by a vote of the people. The latter clause appears to be broad enough to cover minor switching privileges. It is possible that an attempt will be made in the near future to test its application to such grants. The other charter amendment providing for an increase in the pay of members of the municipal assembly was defeated under the three-fifths rule, lacking 2012 votes.

At the same election St. Louis for the third time defeated the proposition for a bond issue necessary to secure approaches for the municipal free bridge which has been built across the Mississippi. Opposition to a street railway franchise across this bridge which had been granted by the municipal assembly is chiefly responsible for the repeated defeat of the measure.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A joint charter conference consisting of representatives of thirty-one civic, commercial and professional organizations of St. Louis have drafted a bill which has been introduced in the municipal assembly providing for an election to be held in April for the selection of a board of freeholders to revise the city charter.

For the summer of 1913 civic and social tours through Europe are being planned by the American Civic Association and by the International Civic Bureau. The American Civic Association's itinerary comprises visits to the chief cities of Germany, Belgium, France and England, and will occupy the period from July 5 to August 30. Special attention will be given to the agencies of municipal betterment abroad. The traveling arrangements are in the hands of the Bureau of University Travel. The International Civic Bureau provides four short tours, adapted to persons with different interests in municipal matters. Those who go abroad for the study of social problems will be conducted by Prof. H. B. Woolston of New York, while those who are interested in city planning and municipal administration will be looked after by Mr. Henry R. Aldridge of London, England. The headquarters of the International Civic Bureau are at 1 Madison Avenue, New York. It is estimated that the cost of these tours for each individual in the party will be less than $500.

One of the most interesting developments during the last few years is the municipal exhibit. New York City originated the idea in its first budget exhibit of 1910, and since that time municipal expositions of one sort or another have been held in about a dozen other cities. Among these the largest and most comprehensive was the International Municipal Congress and Exposition held at Chicago in September, 1911. New York City's second budget exhibit was held in the following October, and during 1912 there have been expositions of a similar character, although sometimes more restricted in scope, in Cincinnati, Philadelphia, Chicago, Greenwich, Conn., and elsewhere. It was soon discovered that to make an effective exhibit of all the city departments at one time was an expensive and difficult undertaking. Accordingly the tendency is now in the direction of taking up one department at a time and showing the taxpayers just what such department is required to do. The Chicago health department exhibit, the New York fire exposition, the child welfare exhibit held in the same city, the Philadelphia water conservation exhibit, and the educational exhibit of Greenwich,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Conn., have furnished during the past year examples of this latter policy. One of the most profitable features of these municipal expositions is the public lectures given by the heads of the city departments concerned.

The *Municipal Journal*, in its issue of December 19, published a table of death-rates showing the mortality from various causes for nine of the largest cities of the world during the last two decades. The table was prepared by the Chicago health department. The statistics show a marked decline in urban death-rates everywhere. The larger American cities considerably exceed those of Europe in death-rates from typhoid, while the mortality from various other diseases is somewhat less in cities on this side of the Atlantic. According to the figures the average death-rate for the three largest American cities (New York, Chicago and Philadelphia) during the decade ending 1910, was 16.9, while that for the four largest cities in Europe (London, Paris, Berlin, and Vienna) was 17.0.

Plans have been completed for Chicago's proposed subway system. There will be four main lines traversing the city in different directions. The estimated cost is of course very large, amounting to nearly a hundred millions for construction and about a third of that sum for equipment. The four subways would have an estimated carrying capacity of 187,000 persons per hour, but this latter estimate includes only passengers for whom seats could be provided. The actual carrying capacity during congested hours would be very much larger.

The National Municipal League's committee on instruction in municipal government has made an investigation into the teaching of this subject at American colleges and universities. Circulars of inquiry were sent to about four hundred institutions and replies were received from about one hundred and seventy-five. Information was sought concerning the number of courses devoted to municipal government, the number of students enrolled, the methods of instruction, the name of the instructor, the text-books used, and various other matters. The committee found that sixty-four institutions offer courses devoted entirely to the subject of municipal government, and in a number of cases several courses are offered. The full report will be printed in a forthcoming issue of the *National Municipal Review*.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Among the recent books on problems of municipal government abroad are the following: *The Mechanism of the City: An Analytical Survey of the Business Activities of the City of London*, by Ellis T. Powell (London: P. S. King, 3s. 6d.); *Problems of Local Government;* by G. Montagu Harris (London: P. S. King, 10s. 6d.); *Urban District Councils: How They Work and How to Work Them*, by J. M. McLachlan (London: P. S. King, 1911, 1s.); *London Municipal Government: The History of a Great Reform, 1880–1888*, by John Lloyd (London: P. S. King, £1 1s.); *The Referendum in Switzerland*, by M. Simon Deploige, with a letter on the Referendum in Belgium by M. J. van den Heuvel (London: P. S. King, 7s. 6d.); *The Law of Extraordinary Traffic on Highways*, by Barnard Lailey (London: Sweet and Maxwell, 1912, 7s. 6d.); *The Law of Town Planning for Scotland*, by Alexander White (Edinburgh and London: W. Green and Sons, 1912); *Regulations with regard to Applications under Part III of the London County Council (General Powers) Act, 1908* (London: printed by Southwood, Smith and Company, 1912); *Municipal Work from a Christian Standpoint*, by A. W. Jephson (London: A. R. Mowbray and Company, 1912, 18d.); *The Housing Problem*, L. A. S. Toke, editor (Catholic Studies in Social Reform, No. 3) (London: P. S. King, 1912, 6d.); *Quelques problèmes d'histoire des institutions municipales au temps de l'Empire romain*, by J. Declareuil (Paris: Larose et Tenin, 1911); *Le régime democratique intégral dans la cité contemporaine*, by Dr. Mazier (Paris: Jouve et Cie., 1910); *Die Einkommensteuerzuschläge in den grösseren preussischen Städten in ihrer Entwicklung seit der Miquelschen Steuerreform*, by Paul Martini (Berlin: R. Trenkel, 1911); *Deutsche Stadbaukunst in der Vergangenheit* (mit 39 lageplänen und 78 ansichten), by A. E. Brinckmann (Frankfurt a. M.: Keller, 1911); *Soziale Tätigkeit der Stadtgemeinden; ein Überblick über Aufgaben und Leistungen der Stadtverwaltungen in wirtschaftlich-sozialer, gesundheitlicher, geistiger und sittlicher Hinsicht*, by Otto Thissen (München: Gladback, 1910; *Die Wohungsfrage*, by Ludwig Pohle, *1. Das Wohnungswesen in der modernen Stadt* (Leipzig: G. J. Göschen, 1910).

Recent publications in the field of American municipal administration are: *Practical Methods of Sewage Disposal for Residences, Hotels and Institutions*, by Henry N. Ogden and H. Burdett Cleveland (New York: John Wiley and Sons, $1.50); *Sewage Disposal*, by George W. Fuller (New York: McGraw-Hill Book Company, $5); *The Milk*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Question, by M. J. Rosenau (Boston: Houghton, Mifflin and Company, $2); *Handbook for Highway Engineers*, by Wilson G. Harger and Edmund A. Bonney (New York: McGraw-Hill Book Company, $3); *Child Labor in City Streets*, by E. N. Clopper (New York: Macmillan, $1.25); *A Text-Book on Roads and Pavements*, by F. P. Spalding (New York: John Wiley and Sons, $2); *A Treatise on the Law of Pawnbroking, as governed by the principles of the common law, and as modified by the statutes of the United States and the ordinances of the municipalities regulating pawnbroking*, by Samuel W. Levine (New York: Press of Fremont, Payne Company, 1911); *Sources of Municipal Revenues in Illinois*, by L. D. Upson (Urbana: University of Illinois, 1912, $0.75).

The *Municipal Year Book of the United Kingdom* for 1912 has assumed a new and much improved form. Announcement is made of the publication, by Messrs. P. S. King and Son, of the *South African Municipal Year Book*, edited by W. P. M. Henderson, assistant town clerk of Durban, and Francis G. Pay, of Cape Town. The volume contains 540 pages. The *Canadian Municipal Journal* of Montreal also announces the publication of a *Municipal Year Book of Canada*, price $4. The *Year Book of Social Progress* for 1912 (London: Nelson, 1912, pp. 167, price 2s.) includes a survey of recent legislation, official reports, and voluntary effort in the field of social welfare. Some attention is given to problems of local government and town planning. The volume contains an introduction by Prof. W. J. Ashley. The *American Statesman's Year Book*, of which the first issue has recently appeared (New York: McBride, Nast and Company, $4), contains a great deal of general political information but relatively little in regard to municipal matters.

Prof. Charles A. Beard of Columbia University has published a book entitled *American City Government* (New York: The Century Company, 1912, pp. ix+420). The volume is intended to present a survey of recent tendencies in municipal government rather than to afford a systematic treatise on the subject. There are chapters on various phases of actual city administration, such as municipal finance, police administration, franchises, public health, tenement-house reform, and recreation. Several illustrations are included.

Mr. Edward F. Croker, former chief of the fire department of New York City, has published, through Messrs. Dodd, Mead and Company,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a volume on *Fire Prevention*. The book is an extremely useful and interesting contribution to this branch of municipal administration. Seventeen chapters are included in the volume and these cover every branch of fire prevention and protection. While the writer has especially in mind the problems and policy of New York City, the book includes a good deal of interesting material relating to other American cities. No one is better qualified to handle the subject than Mr. Croker. For twenty-seven years he was connected in some capacity or other with the fire department of New York City, and for nearly half of this period served as chief of the department. During this time he encountered almost every problem of fire prevention that can arise in a large city, and many of these are discussed with considerable detail in the chapters of his book.

The Chief Publishing Company of New York City has issued a series of volumes intended particularly for the use of those who seek appointment to municipal positions under civil-service rules. Among the volumes already issued in this series are *How to Become a Fireman*, by J. J. O'Reilly (pp. 280, $0.75), *Tenement House Inspector*, by George M. Price (pp. 287, $1.50), and *Fire Prevention*, by P. J. McKeon (pp. 249, $1.75). These books contain a great deal of detailed information chiefly of a technical sort. They are of considerable value to students of municipal government.

The fourth volume of Judge McQuillin's treatise on *The Law of Municipal Corporations* was published in December (Chicago: Callahan and Company, 1912, pp. xxx+3015–4322). This volume contains chapters on the law of eminent domain, franchises and municipal ownership of public utilities. The series will be complete in six volumes.

In the report for 1911 of the chief engineer of the board of estimate and apportionment of New York City, a good deal of attention is given to various general matters connected with the subject of city planning, including such topics as the fixing of street lines, the removal of encroachments, instalment assessments, and excess condemnation. Under this last named topic the engineer recommends that another attempt be made to secure an amendment to the state constitution permitting cities to take by excess condemnation more land than is actually necessary for street-widening purposes. It will be remembered that the proposed amendment in this direction was rejected by the voters of the state at the November elections of 1911.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

During 1912 the New York Public Library has printed in its regular monthly bulletins various lists of city documents comprised within the Library's collections. Prominent among these is a list of city charters and ordinances. The New York Library's collection of charters and ordinances is one of the best in the country, so that these lists may be regarded as a fairly comprehensive bibliography of this subject. Mention may also be made of a list of works on city wastes and street hygiene included in Bulletin 10, for October, 1912.

A volume on *Excess Condemnation*, by Mr. Herbert S. Swan, is announced for forthcoming publication in the National Municipal League's series. Mr. Swan has gathered together a large amount of data on the subject from foreign countries. In the same series a volume on *Civic and Social Center Development*, edited by Edward J. Ward, is announced for publication in February. The book will deal chiefly with the wider use of school houses and other public buildings.

An interesting consular report by Mr. C. B. Hurst, United States Consul at Lyons, France, deals with the subject of bill-board regulation in French cities. The report includes a discussion of the new laws providing for the increased taxation of all signboards which are visible from any public highway.

The Syracuse Chamber of Commerce has printed a *Report on Street Paving Conditions in Syracuse*. The report takes up many interesting matters such as street paving statistics, the present condition of pavements in the city, the policy of exacting guarantees from contractors, the obligations of a street railway in connection with the repair of pavements, the care and cleansing of the streets, etc.

The commission on relief of street congestion in Worcester, Mass., has issued its *Final Report and Recommendations*. The pamphlet contains 73 pages devoted to discussions of the zone-traffic system, methods of relieving congestion at corners, and recommendations for the rearrangement of certain Worcester streets.

Bulletin Number 49 of the bureau of mines, issued by the United States department of the interior, is devoted to the subject of *City Smoke Ordinances and Smoke Abatement*. The Bulletin was compiled by S. B. Flagg, and contains a comprehensive discussion of the subject extending over fifty-five pages.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The city of Cambridge, Mass., has issued a pamphlet entitled *Expert Reports upon the Development of the City's Water Supply*, prepared by Mr. F. J. Stearns, consulting engineer, Prof. Hector J. Holmes of Harvard University, and Mr. L. H. Hastings, city engineer of Cambridge. The reports contain considerable matter of more than local importance.

An elaborate report in two volumes, entitled *The Future Water Supply of San Francisco*, prepared by General M. H. Chittenden of Seattle and by various engineers in the employ of the Spring Valley Water Company, was presented to the United States secretary of the interior in October last. The two volumes, which contain nearly six hundred pages, embody a very complete study of the present and future water resources of San Francisco and the vicinity. They are handsomely printed and contain numerous illustrations.

A new quarterly, entitled *The Somers System News* made its appearance in October last. It is issued by the Manufacturers' Appraisal Company of Cleveland, and has for its purpose to supply information concerning the principles and application of the Somers System of assessing real estate in cities. This system, which has already found adoption in Cleveland and Columbus, Ohio, Springfield, Joliet, and East St. Louis, Ill., Houston and Beaumont, Tex., Augusta, Ga., and Lancaster, Wis., and is soon to be installed in Galveston and Waco, Tex., is creating a good deal of interest elsewhere.

The city of Memphis, Tenn., has established an official publication to be known as *Memphis Commission Government*. It will publish the city's official reports. The title of the publication known as *City Hall-Midland Municipalities* has been changed to *American Municipalities*. The periodical hitherto known as *Denver Municipal Facts* will henceforth appear semi-monthly under the title of *The City of Denver*.

The *Quarterly Journal of Economics* for November, 1912, contains an article on "Ethical and Economic Elements in Public Service Valuation," by J. E. Allison, commissioner and chief engineer for the St. Louis public service commission.

Among the papers printed in the *Proceedings of the Fourth National Conference on City Planning* are the following: "The Progress in City

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Planning," by F. L. Olmsted; "The Meaning of City Planning," by Arnold W. Brunner; "The Attitude of the Engineer toward City Planning," by Prof. George F. Swain; "Paying the Bills for City Planning," by Nelson P. Lewis (chief engineer of the board of estimate and apportionment, New York City); "Paying the Bills for City Planning from a Boston Viewpoint," by James A. Gallivan (street commissioner of Boston).

Number 4 of volume II of the *Proceedings* of the Academy of Political Science (New York) deals with the general subject of "Organization for Social Work." Papers are included on such topics as social service, religious organizations and social work, city planning in New York, and the social needs of the metropolis.

The annual convention of the American Civic Association was held at Baltimore on November 19, 20 and 21. The chief subjects for discussion were parks, city planning and the billboard problem. Among the more interesting papers presented were "Planning a Capital for Australia," by W. B. Griffin, and "Big Billboards in Big Cities," by Raymond B. Fosdick, formerly commissioner of accounts in New York.

The annual meeting of the National Civil Service Reform League was held in Milwaukee on December 5 and 6.

At the Second National Conference on Housing in America in Philadelphia, December 4, 5 and 6, there were papers on "Health Departments and Housing," by Charles B. Ball; "What is the Best Type of Workingman's House," by John Ihlder; "Garden Cities," by Grosvenor Atterbury; "Instructive Sanitary Inspection," by Mrs. Johanna von Wagner; "Suburban and Rural Housing," by Elmer S. Forbes; and "Room Over-Crowding and the Lodger Evil," by Lawrence Veiller.

The Tenth International Housing Congress will be held at The Hague in September, 1913.

The bi-weekly publication known as the *Civic Bulletin* hitherto issued by the Civic League of St. Louis, will be published in future under the title of *Public Affairs* by the Publicity Bureau of the St. Louis Conference of Federations. The Publicity Bureau will be supported not only by the Civic League but by various other civic and social organizations in the city. The new publication will consist of eight pages of three columns each, and will contain not only current municipal discussions but articles on civic and social activities.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The subject of municipal reference libraries is dealt with in an article printed in the *Municipal Journal* for November 14 and also in a paper by Prof. E. M. Sait of Columbia University, published in the January number of the *National Municipal Review*. From these articles it appears that reference or research bureaus of one sort or another have been established in eighteen states and nineteen cities. Of these nineteen, however, only seven bureaus are supported wholly out of public funds; the others are maintained either entirely or in part by private subscriptions. In addition, mention is made of the municipal research or reference bureaus which have been established at seven American universities or colleges.

The League of Pacific Northwest Municipalities has issued the *Proceedings* of its first annual conference held in Walla Walla, Wash., on October 24 and 25, 1912. In addition to the presidential address by Hon. Miles C. Moore, president of the league, there are papers on "Economy and Municipal Civil Service," by R. C. Erskine, civil service commissioner of Seattle; on "Municipal Reference Libraries," by Prof. Charles G. Haines of Whitman College; on "Municipal Control of Public Utilities," by Hon. C. N. Fassett, city commissioner of Spokane; on "The Practical Workings of Commission Government," by Hon. Arthur Hodges, mayor of Boisé, Idaho, besides various shorter papers and discussions on other subjects. Prof. Charles G. Haines is secretary of the organization.

The London *Municipal Journal* of November 15 (pp. 1433–1436) contains elaborate tables showing the financial results of municipal trading in England during the last financial year. The figures endeavor to show the exact amount of net profits applied in relief of rates by cities and towns which conduct one or more public service enterprises.

A recent tabulation of American cities having a commission form of government places the total number at 202. The largest among these is New Orleans, with a population of about 340,000, but the new government has been established in six other cities with populations exceeding 100,000, namely, St. Paul, Minn., Oakland, Cal., Birmingham, Ala., Memphis, Tenn., Omaha, Neb., Lowell, Mass., and Spokane, Wash. Savannah, Ga., recently rejected by a majority of 1819 a proposal to establish the system. Before this proposal was submitted to the voters of Savannah, the local board of trade made inquiries in twenty-six

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

commission-governed cities concerning the practical results of the system. Of these twenty-two reported favorably without any qualification, and four replied that the new administration had been disappointing in some respects but that the defects of the system would probably be remedied in time.

The city of Lethridge in the province of Alberta, Canada, recently voted to adopt the commission form of government. This is the second Canadian city to take this action, the other being St. John, New Brunswick.

The City Club of Chicago is offering cash prizes amounting to $600 for the best plan submitted for the laying-out and improvement, for residence purposes, of a quarter-section of land assumed to be about eight miles from the business district of Chicago; on level prairie land, the area being surrounded by sections laid out in the prevailing gridiron fashion. Each competitor is asked to submit two drawings, one showing streets, parks, and public places, lots and the erection of dwellings upon them, together with provision for educational and administrative buildings; the other plan is to provide a perspective of the whole area or some portion of it. The plans must be accompanied by a typewritten statement giving all necessary data. The award will be made by a jury chosen by the City Club in coöperation with the Illinois chapter of the American Institute of Architects.

The William H. Baldwin Prize offered annually by the National Municipal League for the best essay on a subject in municipal government, will be awarded in 1913 for the most satisfactory thesis on "The Best Sources of City Revenue." Competition is, as usual, open to undergraduate students registered in any regular course in any college or university offering direct instruction in municipal government. In previous years one prize of $100 was offered; for 1913 there will be two parallel prizes of $50 each. Essays must not exceed ten thousand words, must be typewritten in duplicate and must be submitted not later than March 15 next.

Difficulties between the city government and the local gas companies have arisen in Omaha, Minneapolis, and Des Moines. In Omaha the present charge for gas is $1.15 per thousand cubic feet and the city authorities are pressing strongly for a considerable reduction. In Des

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Moines the city government has been successful in securing from the gas company assurances that the rate will be reduced to 90 cents per thousand cubic feet for the next three years.

The first step in the formation of an International Municipal League was taken recently at the twelfth annual convention of the Union of Canadian Municipalities, when a resolution was adopted inviting the National Municipal League of the United States and similar organizations in foreign countries to join in a general association for the study of municipal problems. Hon. Clinton Rogers Woodruff of Philadelphia, secretary of the National Municipal League, has been asked to serve as temporary secretary of the new international organization.

The director of the department of supplies in Philadelphia is collecting data with the idea of establishing, under municipal auspices, a coöperative store for the use of city employees. It is proposed, if the plan should be carried out, to have branch stores in various parts of the city and to handle household supplies of all sorts.

The city of Everett, Wash., adopted at the November election an amendment to its charter providing for the single tax, with the provision that personal property and improvements be given a progressive partial exemption until they are eventually freed from taxation altogether. This action is in line with the tax policy of various cities in the Canadian Northwest.

The town of Revere, Mass., has voted to request from the legislature an act providing for its annexation to Boston. Revere has retained its system of town government although its population now exceeds 20,000 and town meetings have become a practical impossibility. Seven different proposals were submitted to the voters at the November election, but the vote in favor of annexation was larger than those for all the other proposals put together. Only 85 voters expressed themselves in favor of a commission form of government while 23 desired a continuance of the existing town administration.

A National Association of Port Authorities has been formed to study the waterfront problems of cities on the Atlantic and Pacific seaboards, on the Gulf of Mexico, and on the Great Lakes, at an organization meeting held in New York on December 9. Hon. Calvin Tompkins,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

commissioner of docks in New York City, was chosen president. The association will aim to gather material relating to port development abroad and to promote uniformity in harbor administration.

The city of Sumter, S. C., is advertising in various periodicals for a municipal manager. The advertisements state that a trained engineer, competent to manage the public works of the city, is desired, and permanent tenure during satisfactory service is offered. The city manager, when chosen, will be given general administrative control of all the municipal departments subject to the supervision of three elective commissioners.

At the recent City Planning Congress held in Düsseldorf, Germany, a paper was read by Mr. George Koester, consulting civil engineer of New York, on "City Planning in America." The paper will be printed in the *Proceedings* of the Congress.

The Business Men's League of St. Louis has had three home rule bills drafted for submission to the general assembly in January. These bills transfer from the control of the governor to the control of the city, through its mayor, the police department, the election board and the excise commissioner of St. Louis. Instead of a board consisting of the mayor ex officio and four police commissioners appointed by the governor, the draft measure provides a single police commissioner appointed by the mayor. The board of election commissioners under the present law consist of four members appointed by the governor. Under the proposed law it will consist of two members appointed by the mayor.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

NEWS AND NOTES

Personal and Bibliographical

EDITED BY W. F. DODD

The Ninth Annual Meeting of the American Political Science Association was held in Boston and Cambridge, December 27–31, 1912. The presidential address of Professor Hart appears in this issue of the Review. The other papers are published in the *Supplement*, where will also be found the report of the secretary, giving an account of the activities of the Association. The especial attention of members of the Association is, however, here called to the fact that the office of secretary and treasurer is now at Urbana, Illinois, Prof. W. F. Dodd of the University of Illinois having been elected to that office. Particular notice may also be made of the amendment made to the constitution of the Association, which provides that persons may become life members by the payment either of a single sum of $50, or of five sums of $10 each in successive years. The next meeting of the Association will be held at Washington, D. C., beginning December 30. The American Historical Association will hold its annual meeting at Charleston, S. C., but will probably begin its sessions several days earlier and thus permit those attending them to attend also the political science meetings.

Prof. Harrison S. Smalley of the University of Michigan died on September 23, 1912. Professor Smalley's main field lay in economics, dealing more particularly with the subject of transportation, but his interests lay largely in the field of government regulation, which lies midway between economics and politics. Professor Smalley is known to political scientists through his excellent monograph on *Railroad Rate Control in its Economic Aspects*, published by the American Economic Association in 1905.

The joint committee appointed by the forty-sixth general assembly of Missouri has drafted a workmen's compensation act modeled largely upon the New Jersey and Illinois laws. The draft measure will be recommended to the new general assembly which meets in January, 1913.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

At a meeting held in St. Louis on October 21, a Missouri Peace Society was organized as a branch of the American Peace Society. Hon. Richard Bartholdt, St. Louis, is president, and Professor Manley O. Hudson, Columbia, is secretary of the new society.

At the general election in Missouri, all of the nine proposed constitutional amendments were defeated by majorities ranging from 160,000 to 422,000 in a total vote of 594,000. The largest majority was registered against the single tax amendment which aroused so much opposition and prejudice that most voters voted "no" on all amendments.

The division of bibliography of the Library of Congress has issued a *Select List of References on the Initiative, Referendum and the Recall* (Washington, 1912. Pp. 102. Price 15 cents). This list is the result of coöperation between the division of bibliography and the state and legislative reference librarians throughout the country. It includes material relating to direct legislation in foreign countries, and in the case of the United States the writings are classified under appropriate heads. A *Select List of References on Commission Government for Cities* is now in the press.

The Nobel Institute of Norway announces the publication of a catalogue of its library, which, it is claimed, is the most nearly complete in the world in literature relating to international peace. The catalogue will be issued in four parts, dealing with the following subjects: (1) the literature relating to the movement for peace; (2) public and private international law, conferences, treaties, and text-books on the constitutional law of modern states; (3) political and diplomatic history of modern times, diplomatic documents, and biographies of eminent statesmen; (4) the social sciences—political economy and sociology, history and theory of socialism, and of anti-militarism. Part one, which has appeared, is entitled *Bibliographie du mouvement de la paix* (New York: Putnams. Pp. 238).

The REVIEW has received a copy of a valuable paper by Mr. Charles H. Hartshorne analyzing and evaluating the recent practice act of New Jersey. He finds in this act three governing principles: judicial control over procedure, minimum of delay upon points of procedure, and the settlement of a controversy in one suit so far as this is justly practicable.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Professor N. Dwight Harris has in preparation a work entitled "World Diplomacy since 1870: a History of the Intervention of the European Powers in Africa and Asia," which, it is expected, will be ready for publication within a year.

Though fiction, Gustav Janson's *Pride of War* (Boston: Little, Brown and Company, 1912. Pp. 350) deserves a word of mention as, in effect, a powerful portrayal of the cruelty and essential irrationality of war. The book is a series of pen sketches rather than a connected story, and deals with the Turko-Italian war in Tripoli.

Under the title *Aspects of Home Rule* (New York: Dutton and Company, 1912. Pp. 256) are reproduced selections from the speeches of the Rt. Hon. Arthur J. Balfour, delivered, with one exception, in 1893, and dealing with the problem of the government of Ireland. In an appendix is given the text of the home rule bill of 1893.

Reference was made in an earlier number of this REVIEW to the proposal for the establishment of an American Institute of International Law. Such an institute is now being organized, and will probably hold its first meeting in the course of the next year.

Beginning with its January, 1913, number the *American Journal of International Law* will be issued in both Spanish and English editions. The Spanish edition, which is made possible by a subsidy from the Carnegie Endowment for International Peace, will, it is hoped, result in closer intellectual relations among the republics on the American continents.

The third annual conference of the American Society for Judicial Settlement of International Disputes was held at Washington in December. The subjects mainly considered in the addresses delivered were "The Essentials of the Law to be applied by an International Court" and "The Sanctions of International Law."

At a conference held at Clark University last November, a number of addresses were made dealing with various phases of the recent developments in China. Of political interest were papers dealing with the following topics: "The Genesis of the Republican Revolution in China," by J. S. Thompson; "The Outbreak of the Revolution in Szechuan,"

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

by Joseph Taylor; "The New Holy Alliance for China," by A. B. Hart; "The Recognition of the Chinese Republic," by L. L. Seaman; "The Effect of the Revolution upon the Relations between China and the United States," by C. C. Wang; "The United States and Japan in China," by Masujiro Honda; and "The International Situation in China," by Frederick McCormick.

The thirty-second annual meeting of the National Civil Service Reform League was held in Milwaukee, Wisconsin, in December. Addresses were delivered by President Eliot and by Hon. W. D. Foulke and Hon. Charles J. Bonaparte. Papers were read upon the following subjects: "The Development and Application of Advanced Methods in Civil Service Examinations in Wisconsin," by F. E. Doty of the Wisconsin state civil service commission, "The Application of the Merit System to Higher State Officers," by H. N. Saxton, of the New York State civil service commission. A symposium on "Methods of Removal" was participated in by W. B. Hale, trial officer of the Illinois state civil service commission, Robert Catherwood, President of the Chicago Civil Service Reform Association, and others.

Under the editorship of Prof. B. F. Shambaugh the State Historical Society of Iowa has begun the issuance of a series of studies entitled *Applied History*. By this term is meant the application to concrete social and political questions of the present day of the light thrown upon them by the history of the past. Professor Shambaugh furnishes the introductory study, outlining the scope of the series. Other studies are: "Road Legislation in Iowa," by J. E. Brindley; "Regulation of Urban Utilities in Iowa," by E. H. Downey; "Primary Elections in Iowa," by F. E. Horack; "Corrupt Practices Legislation in Iowa," by H. J. Peterson; "Work Accident Indemnity in Iowa," by E. H. Downey; "Taxation in Iowa," by J. E. Brindley.

The general assembly of Iowa will be asked by the state board of education to make an appropriation for the extension of political education, the idea of such extension being the carrying out of education along political and administrative lines to the people.

The first number (November, 1912) of the *California Law Review*, published bi-monthly by the faculty and students of the department of jurisprudence of the University of California, has appeared. Mr. O.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

K. McMurray is editor-in-chief. Besides leading articles, the *Journal* contains editorial notes and comments on recent cases. The subscription price is $2.50 per year.

A convention signed by the International American Conference at Rio de Janeiro in 1906, provided for an international commission of jurists for the purpose of preparing draft codes of public and private international law. The first meeting of this commission was held in Rio de Janiero in June, 1912, with a representation of seventeen states. Prof. John Bassett Moore and Frederick Van Dyne represented the United States. Six committees were appointed to prepare parts of draft codes, and another meeting is to be held at Rio de Janeiro in June, 1914.

Il Concetto del Diritto by Giorgio del Vecchio (Bologna; 1912) is a reissue of a work published in 1906. Promise is made in the author's preface of a new edition in the near future with a thorough revision of the book and an elaboration of his thesis.

Sulla Positività come carattere del Diritto (Opuscoli di filosofia e di pedagogia, no. 8) by Giorgio del Vecchio (from *Rivista di Filosofia*, Anno III, Fasc. I, 14) is the introduction of the author's course in the philosophy of law at the University of Bologna. It contains a critical statement of the various opinions of a number of Italian and German writers of the past twenty years on modern juridical idealistic philosophy.

In a dissertation presented to the Latin-American Scientific Congress, *De la non-existence d'un droit international Américain* (Rio de Janeiro: L. Figueredo, 1912. Pp. 290) Professor Sa Vianna of Rio de Janeiro vigorously combats the view expressed several years ago by Dr. Alejandro Alvarez that there are principles constituting an American international law..

The Clarendon Press has published a recent lecture of Sir H. Erle Richards' on *Sovereignty Over the Air* (Oxford: 1912. Pp. 27), in which the author argues ably for the adoption of the rule that the principle of state sovereignty should apply as exclusively to the air space above the territory as to the territory itself. This, he holds, is in accordance with accepted principles of international law as well as with the rules of municipal law.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The interaction of political theories and political events opens up one of the most fruitful of fields to the historian and to the political scientist alike, and one, it may be said, that has not been adequately cultivated in the past. An essay such as that of Mr. Walter Phelps Hall, entitled *British Radicalism, 1791–1797* (Columbia University Studies, Longmans, 1912. Pp. 262) is, therefore, welcome. The work is divided into two parts, dealing respectively with radicalism in theory and radicalism in practice. A bibliography of both primary and secondary sources is appended.

The Filipino People is the title of a new monthly journal, the first number of which appeared in November, 1912. It is issued from Washington, D. C., by Mr. Manuel L. Quezon, resident commissioner from the Philippine Islands, and is devoted solely to the interests of the Filipino people,—to the fair and truthful exposition of the relations between the Philippine Islands and the United States, with a view to hastening the ultimate establishment of Philippine independence upon a self-governing republican basis, by the aid and with the recognition of the United States. The subscription price is $1 per year.

Under the title *Courts, Criminals and the Camorra* (New York: Scribner's Sons, 1912. Pp. 253) Arthur Train, formerly assistant district attorney of New York County, gives an interesting, and at times valuable account of methods of discovering, apprehending and trying criminals in this country, together with an account of the Camorra in Italy and a description of the trial of the Camorrists at Viterbo. Especially interesting, as being a statement from the "inside," is the account of the manner in which important criminal cases are prepared for trial. The court methods at Viterbo are defended against much of the criticism that has appeared in American newspapers.

Edward Stanwood has published a supplementary volume of his *History of the Presidency* (Boston: Houghton Mifflin Company, 1912. Pp. 298) which covers the presidential campaigns of 1900, 1904 and 1908. This volume, like the first, is more comprehensive than the title imports, many political events being discussed which had little direct effect upon the national elections. Of special interest to the political scientist, as distinguished from the historian, is the last of the five chapters of the book, which deals with the evolution of the presidential office. In the executive department the author finds a develop-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ment of powers not only greater than that secured by the judicial and legislative branches, but one that in part has been secured at the expense of these other branches of the national government. In an appendix are given the party platforms of the campaign of 1912.

Mr. William S. Stevens has compiled a valuable volume of source material dealing with the history, forms and activities of industrial combinations and trusts (*Industrial Combinations and Trusts.* New York: the Macmillan Company, 1913. Pp. 593). The aim of the author, as stated in the preface has been to furnish the reader with a book "which should place before him the original documents themselves: pooling, trust, factors and international agreements; court decisions and law against trusts; trust methods of fixing prices, eliminating competition and restraining trade; the dissolution plans of dissolved trusts; lease and license agreements of representative patent monopolies; and the views of eminent business and professional men as to the proper methods of handling this gigantic problem."

In the *Journal of Criminal Law and Criminology*, for January, appears an article on "State Indemnity for Errors of Criminal Justice," by E. M. Borchard, of the Library of Congress. The body of the article contains an historical and theoretical discussion of European systems of state indemnity for errors of criminal justice. An appendix contains a compilation of the statutes of the principal countries of Continental Europe and of Mexico dealing with this subject, and also the draft of a bill to grant relief to persons erroneously imprisoned or convicted of crime in the courts of the United States. The bill was introduced in the Senate during the present short session of congress, and referred to the committee on the judiciary.

Prof. Allen Johnson has published a volume of *Readings in American Constitutional History, 1776–1876* (Boston: Houghton, Mifflin Company, 1912. Pp. 584) the aim of which is to furnish students and teachers, a means of employing the so-called case system of instruction, in the constitutional history of the United States. The volume supplements those of Professor McDonald. Formal documentary material, bills and statutes, are omitted, and, in general, the selections relate to purely constitutional, as distinguished from political, questions. The readings have been chosen with excellent judgment and are logically grouped. It is to be

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

hoped that the volume will encourage the giving of college courses devoted primarily, if not exclusively, to the historical development of constitutional doctrines in this country. There are not enough such courses now being given.

The *Abstract of the Thirteenth Census* (Washington: 1912) presents in a single volume the results of the census of 1910 with reference to the four principal branches of that inquiry—population, agriculture, manufactures, and mines and quarries. The only important omission under these heads is the subject of occupation, the data for which have not yet been fully tabulated. The results of the census are here given for the different States and the chief cities, but not for other civil divisions. The abstract, therefore, contains all the results of the census likely to be of use to any one except those engaged in detailed statistical investigations.

The present abstract differs from its predecessors in that it contains not only statistical tables, but also interpretation. Indeed, so full is the interpretative comment that the tables, adequate as they are, may almost be regarded as illustrations of the text. This change will be appreciated by students of political science and all persons interested in public affairs, since a mere collection of tables proves not infrequently full of pitfalls to persons unacquainted with statistical methods or with the definitions used by the census.

One feature of the volume is unique in American census-making. A supplement to the abstract contains all of the census results, except as to occupation, concerning a particular State, its counties, cities and other civil divisions. Editions of the abstract will be issued for each of the States and for the District of Columbia, Alaska, Hawaii and Porto Rico. This innovation will make the results of the census much more easily available to those persons who are interested in the facts relating to a particular State, county or city. Heretofore, such information could be had only by going through a number of volumes. A citizen of Lincoln County, Maine, for example, by using the abstract with the Maine supplement can quickly assemble all the census results as to population, agriculture, manufactures, and mining relating to his county and can easily compare them with similar results for other counties in his State.

The director of the census has made in this volume notable and highly important advances in the presentation of census results. The census will never become household literature, but the improvements

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

made in the abstract will certainly lead to a far wider use of the facts collected by the census. G. E. B.

The *Zeitschrift für Politik* has begun the publication of a series of supplements under the title: *Die Parteien. Urkunden und Bibliographie der Parteienkunde* (Berlin: Carl Heymann). Two numbers have been issued (pp. iv, 380, 1912) which are devoted to the German parties, and which give in detail the material, both documentary and bibliographical, for a study of the German party system. The numbers contain no study or description of the German parties, but furnish the raw material for such study, and should be of great value to students outside of Germany, who cannot obtain easy access to such material. However, the material here collected (aside from that of a bibliographical character) relates only to the period from April, 1911, to June, 1912. Still a third number will be devoted to Germany, and the fourth number of the series will contain material relating to Austrian parties.

In *Das Problem eines internationalen Staatengerichtshofes* (Leipzig: Duncker und Humblot, 1912. Pp. xx + 243) Dr. Hans Wehberg addresses himself to the problem of the proper organization of a permanent international court. He recognizes that two classes of cases may present themselves for arbitration: political cases which are not, and can hardly be, governed by any definite and uniform rules; and the great mass of other cases which may be settled by the application of uniform legal principles. For the latter class of cases Dr. Wehberg urges that there should be a permanent tribunal which should render its decisions strictly in conformity with law by decisions of a small permanent court, composed of trained judges and not of diplomats. A judicial tradition would be created and judicial precedents established. Dr. Wehberg favors a permanent court of from five to seven members to be chosen not by the states but by an international college of jurists.

Dr. Yotaro Soughimoura, in *De la déclaration de guerre au point de vue du droit international public* (Paris: Rousseau, 1912. Pp. vii + 501), criticises the rule of the second Hague Conference regarding declarations of war. He contends that The Hague rule is not based on practice, and that progress in the technique of armaments makes it impracticable. He insists that a state of war actually exists when the aggressor state decides to commence warlike operations, although this gives an advan-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tage to the state which is the aggressor. He suggests a rather fanciful scheme for a conditional declaration of war by which a power meditating war, but not yet having decided upon it, might notify its prospective enemy and neutral powers of the step which it is considering. Between such a declaration and the formal opening of hostilities the author would have the powers remain in *statu quo*.

The first number of the *Publications de l'institut Norvegien*, Kristiania 1911, is an important contribution to the history of arbitration by A. Raeder, entitled *L'arbitration international chez les Hellenes* (pp. xvi + 322). The author has treated his subject with diligence and sagacity, and by extracting the last drops of evidence from the none too abundant documents has superseded all previous studies in the field. As a rough basis of comparison one might take the corresponding chapters in Coleman Phillipson's *The International Law and Custom of Ancient Greece and Rome* (1910), which, by the way, seems to have appeared too late for Raeder to make use of it. Phillipson devotes thirty-eight pages to the subject as against the three hundred and more of the treatise under consideration. Raeder has collected eighty genuine instances of proposed arbitration, ten of which resulted in treaties of arbitration, and fifty-one in cases that involved sixty-two separate decisions. In view of the fact that most of the instances are known to us only from inscriptions, and that the overwhelming majority of such inscriptions has perished, the figures given above are sufficient evidence that arbitration as a mode of settling disputes between sovereign states was more widely practised among the Hellenes than has commonly been supposed. Raeder's studies amply substantiate the conclusion that in Hellas international arbitration was "for the first time formulated both in theory and in practice, and that it developed into those forms which endure even today, whether consciously or unconsciously, as the basis of modern developments."[1]

In an able, if at times effervescent, study (*The New Democracy*. New York: Macmillan, 1912. Pp. 370) Dr. Walter E. Weyl has attempted to interpret the political and economic development of the United States and to explain the present social unrest. He finds that our democracy is but a shadow, and that early economic freedom and social equality have given place to a resplendent democracy. A tolerant and profit-seeking individualism was naturally developed by a people living in the midst of rich natural resources, and when these began to be sys-

[1] By W. A. Oldfather, University of Illinois.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tematically exploited the age of utilization followed, of which the characteristic feature was the trust, and the typical class the plutocracy. Today this is giving way to the new democracy, the program of which may best be stated in the author's own words.

"The industrial goal of the democracy is the socialization of industry. It is the attainment by the people of the largest possible industrial control and of the largest possible social dividend. . . . . The political program of the democracy seeks a complete control over governmental machinery and processes. It seeks to break the power of a politically entrenched plutocracy, to attain to a government by the people for the people. . . . . The social goal of the democracy is the advancement and improvement of the people through a democratization of the advantages and opportunities of life."

The volume is about equally divided between the analytical and historical part, called "The Evolution of the Plutocracy," which is an incisive indictment of modern industrial society, and the constructive portion, entitled "The Beginnings of a Democracy." Dr. Weyl is, however, by no means a socialist. He would probably have called himself a progressive, had this party been born when he wrote his book. As a matter of fact he is now rendering ardent service in the councils of this organization. The purpose of the work is to make clear the need of a reorganization of society in such fashion as to secure a more equitable distribution of the social dividend, and both the need and the method are suggestively set forth. It seems unfortunate that its moral earnestness should often be lessened by the author's evident fondness for alliterative phrases and striking adjectives. But perhaps the average reader would not consider this a blemish.[1]

The Need for a National Budget is the title of a report of the President's commission on economy and efficiency, which has been published as a congressional document. (Washington: Government Printing Office, 1912. Pp. 568.) Considerable space is devoted to an historical and descriptive review of the methods hitherto employed in the management of the finances of the Federal Government. Methods of budget making in European countries are instanced by way of comparison and contrast, but little attention seems to have been paid to financial management in the States of the Union. Upon the basis of the facts presented, the commission submits certain constructive recommendations. It is proposed by the commission that the President shall

[1] By E. L. Bogart, University of Illinois.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

annually submit to congress a budget containing a statement of the items to which special attention is invited; a summary financial statement showing present conditions and past results; a summary of estimated receipts and expenditures; and a summary of changes in the law proposed by the administration. According to the plan proposed by the commission, department and bureau heads would report estimates to the President instead of to congress, and preliminary estimates would be submitted to congress by the President rather than by the secretary of the treasury.

The plan proposed by the commission is attractive in several respects. A clear statement in budget form submitted by the President at the opening of congress would prove of great assistance to the general public in arriving at some understanding of the financial condition of the country, which they are now unable to do. The publicity which would attach to the recommendations of the President would doubtless prevent some of the juggling with items which now takes place, although congress would still, of course, be able to make such changes in the estimates as it might see fit. On the whole, however, as long as we do not have the parliamentary form of government in this country, it may be doubted whether the plan of the commission is a feasible one. The commission has placed more emphasis on the expenditure than on the revenue side of the budget, and it is probably for this reason that it has not appraised at its full value the traditional idea that the levying of taxes should be in the control of the elected representatives of the people rather than in that of the executive. Moreover, there does not seem to be much likelihood that congress would be willing to surrender to the President its power of making the estimates, except possibly to the extent of a combination of executive and legislative control.[1]

The second volume of the second edition of Oppenheim's *International Law* (New York: Longmans, Green and Company, 1912. Pp. 711) has appeared. The first volume, dealing with peace, was noticed in the May, 1912, number of the REVIEW. The present volume deals with war and neutrality. The development of new rules and topics within this field has been so rapid during the last few years that Professor Oppenheim has been forced not only to rewrite much of the text of the first edition, but to add more than a hundred pages of new matter. Not a little of this new matter deals with the thirteen conventions of the second Hague peace conference and the declaration of London. The

[1] Prepared by J. M. Mathews.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

London declaration has not yet been ratified but the author expresses the hope that it will be and declares that its adoption will mark a great progress in the development of international law. An entirely new chapter has been devoted to the proposed international prize courts, and the treatment of the topics enemy character, commencement of war, and unneutral service is wholly recast. In an appendix are given in their French texts the declaration of Paris of 1856, of St Petersburg of 1868, and of The Hague of 1899 concerning expanding bullets and diffusion of asphyxiating gases, the Geneva convention of 1906, the final act and several of the conventions of The Hague peace conference of 1907, the draft convention concerning the creation of a judicial arbitration court, the declaration of London of 1909 with the report of the drafting committee on each article, the English foreign enlistment act of 1870, the naval prize act of 1864, the prize courts acts of 1894, the naval prize bill of 1911 (passed by the commons but rejected by the lords), and the Geneva convention act of 1911.

The merits of Professor Oppenheim's treatise are so well known that they do not need again to be stated. The thanks of scholars are, however, due the author for not contenting himself with perfunctory changes in the new edition. He has carefully revised the text whenever necessary, and by substantial additions has brought the work well up to the date of publication.

In a book, entitled *National and Local Finance* (London: P. S. King and Son, 1910. Pp. xxiv + 404) Mr. J. Watson Grice, of the London School of Economics and Political Science, discusses the systems of finance of England, France, Belgium and Prussia, with particular reference to the relations between the central and local authorities. Incidentally he discusses also various governmental activities, such as primary education, police, old age, invalid and workingmen's pensions, free medical assistance, highway service, poor relief and other forms of social legislation which, in recent years have made necessary increasing additions to the national and local budgets. He points out that on the continent the attitude of the state in respect to the relation between national and local services is based mainly on reasons of historical development, and is therefore in marked contrast to that which prevails in England where most of the services administered by the local authorities are regarded as primarily of local interest. The Continental method, unlike that of England, has been to differentiate strictly between "central" and "local" services over the former of which the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

central government reserves a strict control. In regard to local resources he shows that whereas in England the local authorities depend almost entirely upon the rates levied on "occupiers," on the continent we find multiform and heterogeneous tax systems almost bewildering in their variety. Among the valuable features of the book may be mentioned the bibliographical lists of authorities and documents and the statistical tables of receipts and expenditures, local and central, of the several countries treated. Mr. Sydney Webb contributes a preface in which he compares English, American and Continental methods. The American method, he calls the "anarchy of local autonomy," which has given the United States "the worst local government of any state claiming to be civilized."

The Canadian *Annual Review of Public Affairs*, compiled by Mr. J. Castell Hopkins, and published by the Annual Review Company, Toronto, which has now been established eleven years, long ago took on a character that makes each new issue indispensable in reference libraries, and of increasing service to students of Canadian contemporary history. The issue for 1911 (pp. 672) is of more than usual value, for 1911 was the year of the revival of the reciprocity movement, and a little over 250 pages are devoted to the history of the reciprocity bills at Washington and at Ottawa. Every aspect of the movement has been followed with much detailed care by Mr. Castell Hopkins; so much so that scarcely a phase of it on either side of the boundary line or in England can be suggested that is not adequately treated in the *Review*. Reciprocity was the dominating question in Canadian politics from the introduction of the bill in the house of commons by Mr. Fielding on January 26, until the defeat of the Laurier government at the general election in September. But notwithstanding the copiousness with which reciprocity is treated there has been no curtailment of the number of pages devoted to other aspects of Dominion politics, to the histories of the nine provincial governments, or to the general economic development of the Dominion. There is also the usual survey of the relations of the Dominion with the imperial government, and full details of immigration and railway building in 1911. The indexes extend to twelve pages, and by their subdivision into names and subjects make the *Review* a peculiarly easy reference book to handle.

Monsieur Paul Viollet in his *Le roi et ses ministres pendant les trois derniers siècles de la monarchie* (Larose et Tenin, Paris: 1912.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Pp. x + 615), adds another valuable treatise to his already long list of studies on the legal history of France. Though less extensive in scope than his *Histoire des institutions politiques et administratives de la France* it comes up to the same high standard in point of scholarship and method. While the present work deals principally with the king and his ministers, the latter term is employed in its largest sense to include all the important delegates of the royal power and their history and functions are treated in relation to the great services with which they were associated, so that we have much more than a history simply of the royal office. Starting with a summary of the formation of the kingdom he traces the growth of the royal power, analyzes the theory of divine right which occupied such an important place in the theory of the royal power, and discusses the relation of the king of France to the papacy and to the emperor, the liberties of the Gallican Church, the origin of the secretaries of state, the chancellor, the public finances, the army, the marine, the great public services (mines, waters, forests, roads, bridges, and posts), the intendants, the parliaments and the provincial assemblies. Every page is illuminated with copious explanatory footnotes and bibliographical citations showing evidence of the widest research and painstaking industry. While the work is mainly historical in character it is indispensable to the study of the existing legal institutions of France since it is only by studying them in their historical relations that one can properly understand them as they are today. Monsieur Viollet holds out the promise that if time is spared him he expects to treat the clergy, the states-general, the judiciary and the finances of the monarchy in a later work. He has thrown so much light on the subjects already treated by him that legal and historical scholars the world over will rejoice to see him complete the work so admirably begun.

NEW HAMPSHIRE CONSTITUTIONAL CONVENTION

FRANK A. UPDYKE

Dartmouth College

New Hampshire has the unique, but not over laudable distinction, of being the only State in the Union which amends its constitution only through the medium of a constitutional convention. The constitution provides that the question of revision shall be submitted to the people once in seven years. If a majority of those voting upon the question

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

vote affirmatively the legislature is required to make provision for calling a constitutional convention. This convention is composed of the same number of members, and elected in the same manner, as the representatives to the lower house of the legislature. Amendments proposed by the convention must, to become law, receive a two-thirds vote of those voting thereon.

The people of New Hampshire have been exceedingly conservative in making changes in their fundamental law. The original constitution of 1784, with modifications made in 1793, has continued to the present time with comparatively few changes. Since 1793 there have been only five constitutional conventions, the people having upon sixteen different occasions voted negatively upon the question of calling a convention. These five conventions have submitted altogether sixty-one amendments. Of these twenty-six have been adopted.

The mode of amending the constitution of New Hampshire is such as to discourage constitutional changes, even though such changes may be desirable. In the first place, it is generally held that a constitutional convention can not be convened oftener than seven years. Usually the periods between conventions have been much longer. In the second place, the procedure attending the convening of a convention covers a period of from two to three years. To illustrate, the New Hampshire legislature in March, 1909, voted to submit the question of calling a convention to the voters of the towns. This vote was taken at the November election, 1910. A majority having voted in the affirmative, the legislature, in April, 1911, made provision for convening a constitutional convention in June 1912. The towns in the March elections in 1912 elected delegates to this convention. The proposed amendments passed by this convention were submitted to the electorate at the November elections in 1912, nearly three years from the time when the first step was taken in the direction of calling a constitutional convention.

The last convention met, pursuant to the act of the state legislature, the fifth of June, 1912, and continued in session until the twenty-second of June. The convention was composed of 413 delegates. These had been elected, for the most part, upon party tickets, though a few were elected upon independent nomination papers. Though the convention was, supposedly, non-partisan, the usual bi-partisan arrangement was at once made in caucus, the Republicans naming the president and the Democrats the clerk of the convention. The regular Republican employees of the house of representatives were retained. The lines of division in the convention were, on the whole, not between Republicans

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and Democrats, but between conservatives and progressives irrespective of party. The convention was, save for about twenty minutes of the day before the closing of the session when the bill for taxing income of public service corporations was passed, well under the control of New Hampshire's old guard politicians. These men not only named the officers of the convention and through farcical proceedings took possession of the best seats in the house, but they controlled the committees and the proceedings of the convention. Word was passed along at the outset of the convention that all progressive measures should be stifled. To this end care was taken in the appointment of committees not to include those interested in measures to thich the "stand patters" were opposed.

Notwithstanding the fact that the reactionary character of the convention gave little hope of any thoughtful consideration of proposed changes to the constitution, fifty-nine resolutions were submitted. Of these fifty-nine measures six had to do with the taxation of forest lands and intangibles, enabling the legislature to tax such properties at different rates from other taxable property. The taxation question was considered the most important of any coming before the convention and it was with the expectation that the constitutional convention would offer some relief to present methods of taxation of forest lands and intangibles that the convention was called. Nine resolutions were presented relating to the reduction of the house of representatives which at present has the largest membership of any State in the Union. Four proposals were made in the direction of increasing the size of the senate which now numbers only twenty-four. Three resolutions were introduced providing for a legislative mode of amendment. In connection with the short ballot movement in New Hampshire five resolutions were introduced relating to the appointment of county officers.

Other important proposals were, the initiative and referendum, woman suffrage, plurality elections, taxation of incomes, councillor and senatorial districts to be based upon population, income tax upon public service corporations, conviction of bribery and violation of election laws made a disqualification for voting and holding office, provision for home rule for cities, governor given power to veto items of appropriation bill, words evangelical and protestant to be stricken from the constitution, extending the jurisdiction of justices of the peace, and provision with respect to an inheritance tax.

Of the fifty-nine resolutions introduced covering thirty-four subjects only twelve were passed by the convention.

These proposed amendments were as follows:

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

1. To increase the senate to thirty-six and to divide the State into senatorial districts on the basis of population.

2. To decrease the size of the house of representatives by making twenty-four hundred instead of eighteen hundred the ratio for representation in towns for the second and additional representatives.

3. To empower the legislature to specially assess, rate and tax growing wood and timber and money at interest.

4. To provide for a graduated inheritance tax.

5. To empower the legislature to impose a tax upon the income of public service corporations.

6. To strike out the words evangelical and protestant in the bill of rights of the constitution.

7. To disqualify for voting or holding office any person convicted of treason, bribery, or wilful violation of the election laws.

8. To provide for plurality in place of majority elections in the case of governor, councillors and senators.

9. To amend the bill of rights by striking out the provision that pensions shall not be granted for more than one year at a time.

10. To empower the legislature to increase the jurisdiction of police courts so as to include all crimes not punishable by confinement in the state prison.

11. To provide that councillor districts be based upon population instead of property.

12. To allow the governor to veto separate items of an appropriation bill.

The subjects which received most discussion in the convention were those of taxation, increasing the size of the house of representatives, woman suffrage and the initiative and referendum. The last two measures were defeated by the following vote: woman suffrage, 208 to 149; initiative and referendum, 177 to 157. It was quite apparent that the same two factors contributed very largely to the defeat of both of these measures. These were the corporations and the liquor interests.

Of the twelve proposed amendments submitted to the voters at the November election only four were adopted and these were all of minor importance. Those which secured the necessary two-thirds vote were: the amendment regarding disqualification for voting and holding office for conviction of bribery and violation of election laws; plurality elections; extension of jurisdiction of police courts; councillor districts to be based on population. Much disappointment was felt over the failure of the others, particularly the one relating to taxation of forest lands

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and intangible property. It has been proposed that the president of the convention reconvene the convention in order to formulate another proposal with reference to taxation of forests, and that such proposal be submitted to the voters at the March elections. The convention can be reconvened in this way, for when it adjourned it did so subject to the call of the president. This will probably be done for Governor Felker in his inaugural address has recommended that the legislature make sufficient appropriation for reconvening the constitutional convention to the end that that body may consider the advisability of submitting any proposed changes to the constitution to the voters to be voted on at the March elections. This would enable the present legislature to pass legislation in accordance with any changes that might be approved by the people. Governor Felker in his recommendation pertinently suggests the desirability of an amendment allowing the legislature to propose amendments. Certainly the results of the constitutional convention of 1912 emphasize the need of such change. Many believe that this is the most important amendment that could be adopted.

RECENT DECISIONS OF STATE COURTS ON POINTS OF PUBLIC LAW

Executive power. State vs. Rhame. (South Carolina, September 21, 1912. 75 S. E. 881.) Power of removal from office not incident to office of governor, nor incident to power of appointment, if term is fixed by statute. Implied power also negatived by express grant of more limited power. Two judges dissent.

Method of passing statutes. Baltimore Fidelity, etc., Company vs. Canton Lumber Company. (Maryland, May 10, 1912. 88 Atl. 188.) The constitution is not violated by the willing return of a bill by the governor to one branch of the legislative at its request, supported by the concurrent action of the other branch in making such request. Distinguished from People vs. Devlin, 33 N. Y. 269.

Method of passing statutes—Amending acts. Lyons vs. Police Pension Board. (Illinois, June, 21 1912. 99 N. E. 337.) Under the constitutional provision requiring the section amended to be inserted at length in the new act, a new provision which in substance amends a section of a prior act, cannot be framed as an additional section.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Delegation of powers. State vs. McCarty. (Alabama May 7, 1912. 59 So. 543.) Stock quarantine act not rendered unconstitutional by leaving it to live stock board to determine when certain measures are to be taken in any part of the State.

Delegation of powers. Board of Election Commissioners vs. Davis. (Mississippi, October 28, 1912. 59 So. 811.) The principle of local option involves no unconstitutional delegation of legislative power.

Elections. People vs. Smith. (New York Supreme Court, Special Term, August 30, 1912. 137 N. Y. Supl. 177.) Provision of election law of 1909 requiring 1500 signatures to a petition for nomination for county offices is invalid because unreasonably burdensome in a number of counties in view of their small population.

Elections—Primary elections. Ex parte Wilson. (Oklahoma, July 29, 1912. 125 Pac. 739). "If an elector is challenged on the ground that he is not in good faith a member of the party whose ticket he is attempting to vote, the duty of the inspector is the same as upon a challenge as to any other qualification. An elector who resists the challenge and makes oath that he possesses the qualification contemplated by the constitution should bear in mind that the usual test is: Did the elector vote the party ticket at the last preceding general election?"

Personal rights. State vs. Feilen. (Washington, September 3, 1912. 126 Pac. 75.) Vasectomy or sterilization of a person convicted of rape is not cruel and unusual punishment.

Personal rights—Peonage. Wilson vs. State. (Georgia, August 14, 1912. 75 S. E. 619.) The thirteenth amendment is not violated by a statute which punishes as a common cheat and swindler one who agrees to perform service with intent to procure money and not to perform the service contracted for. The provision that failure to perform the service and to return the money without good cause shall be presumptive evidence of the intent, is merely a rule of evidence, and is severable.

Personal rights—Self crimination. Ex parte Kneedler. (Missouri, June 1, 1912. 147 S. W. 983.) A statute makes it a felony for the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

operator of a motor vehicle by whose culpability an injury has been caused to leave the place of the accident without stopping and giving his name and residence or reporting the accident to the nearest police station. Held—contrary to 130 N. Y. Supl. 544—that this is a reasonable police regulation. Not necessary to decide whether the compulsion will constitute a defense to a criminal prosecution.

Procedural rights. Stead vs. Fortner. (Illinois, October 2, 1912. 99 N. E. 680.) Where a statute declares places in which intoxicating liquor is unlawfully sold to be nuisances and abatable as such, the attorney-general may proceed against them in equity.

Vested rights. Somerville vs. St. Louis, etc. Company. (Montana, October 26, 1912. 127 Pac. 464.) Under the reserved power to amend the laws under which a corporation is organized, a corporation previously organized may be authorized by a vote of stockholders holding two-thirds of its stock to render the stock assessable.

Equal protection. Bloomfield vs. State. (Ohio, June 27, 1912. 99 N. E. 309.) Aliens may be prohibited from engaging in the business of selling intoxicating liquors.

Equal protection and class legislation. Stewart vs. Western Union Telegraph Company. (South Carolina, November 1, 1912. 76 S. E. 111.) The mental anguish statute of 1902 providing for recovery of damages for mental anguish in action against telegraph companies under certain circumstances, is not unconstitutional as unduly discriminating against telegraph companies. Rules regarding classification under the police power stated.

Equal protection—Exemption. Consumers' League vs. Colorado and State Railroad Commission. (Colorado, May 6, 1912. 125 Pac. 577.) Act creating state railroad commission act is not invalid because it exempts from the common carriers to which it applies, mountain railroads less than twenty miles long and hauling chiefly minerals. Discusses principles of classification. If classification is reasonable on its face evidence can not be taken to show that it is unconstitutional.

Municipal corporations—Debt limit. Paine vs. Port of Seattle. (Washington, November 12, 1912. 127 Pac. 580.) Where a new

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

municipality is created out of territory over which other municipal corporations have jurisdiction, its constitutional debt limit is calculated independent of the others. (Otherwise where two districts are consolidated into one, 66 Wash. 324.)

Municipal corporations. Swain vs. Fritchman. (Idaho, May 4, 1912. 125 Pac. 319.) Commission government act of 1911 sustained against a number of technical objections drawn from the provisions of the state constitution and against the objection that it impairs the rights of bondholders. One of the three judges dissents on the ground that initiative and referendum may be used to negative the necessary tax levies.

Administrative law. Enterprise, etc. District vs. Tri-State Land Company. (Nebraska, October 18, 1912. 138 N. W. 171.) Where a statute under the police power authorizes a proceeding affecting the property rights of any person and does not expressly provide for notice to be given, the right to notice is implied.

Administrative law—Right to sue. Kavanaugh vs. Gordon. (Missouri, July 2, 1912. 149 S. W. 587.) The Missouri waterway commission has no standing to question the validity of the appropriation of $7000, part of the $17,000 appropriated to the commission, to pay the salary and expenses of one person named as special agent and expert. The principal opinion, holding that the members of the commission may sue, is dissented from by the majority of the court.

Statutes. Hayes vs. State. (Georgia, July 23, 1912. 75 S. E. 523.) Act making penal the operation of an automobile on highways "at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of such highway, or so as to endanger the life or limb of any person or the safety of any property," is too uncertain and indefinite to be capable of enforcement.

Interstate law. Tennessee Coal Company vs. George. (Georgia, June 5, 1912. 75 S. E. 567.) The provision in an employers' liability act of Alabama that actions must be brought in a court of competent jurisdiction within the State of Alabama and not elsewhere, will be ignored by a court of Georgia. The court relies on Atchison, etc., R. Company vs. Sowers, 213 U. S. 55.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

BOOK REVIEWS

Problems of the Roman Criminal Law. By JAMES LEIGH STRACHAN-DAVIDSON. (Oxford: Clarendon Press, 1912. 2 vols. Pp. xxi, 245; 287.)

The publication of this work entitles the author to a prominent place among English civilians. The list of English writers who have been devoted to the study of Roman law includes the names of many distinguished scholars—among others, the names of Amos, Clark, Hunter, Mackenzie, Maine, Phillimore, Poste, Goudy, Greenidge, Moyle, Muirhead and Roby. But it is a noticeable fact that among these many writers there is no one, with the possible exception of Greenidge, who has paid special attention to the criminal law. The treatment of this particular branch of the Roman law is attended with peculiar difficulties, on account of the meagre references to it in writing of the ancient jurists, either in the "Institutes" of Gaius and Justinian or in the excerpts preserved in the "Digest." Modern writers must, therefore, depend largely upon their own deductions drawn from references made to criminal trials by the historians, and especially from material found in the orations of Cicero. This fact is sufficient to explain the wide diversity of views among modern civilians in regard to many details of the ancient criminal procedure. It is the attempt to estimate the relative merits of these conflicting views that constitutes the important and distinctive feature of the present treatise. It is safe to say that in this special field of inquiry there is no other English work that can well be compared with it, as regards scholarship and critical ability.

The author tells us in his preface that the book was "developed out of a criticism of Mommsen's *Strafrecht* published in the *English Historical Review* for April, 1902" (which should, by the way, read 1901). The work of Mommsen is generally conceded to be the most thorough and exhaustive treatise on the Roman criminal law. Although our author recognizes in Mommsen the "master-mind" in this field of learning, he is yet not disposed to accept implicitly all the views of the great German historian. This independence of judgment might seem presumptuous on the part of an English writer who had at the time of his early criticism

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

scarcely attained a reputation as an authority on the Roman law. He, however, justifies his right to form an opinion of his own, by his ready appeal to historical facts and his wide acquaintance with the controversial literature upon the subjects discussed. While much of the material of this early criticism has been incorporated in the present treatise, the author has been led to extend considerably his original field of investigation. The work as now published is, therefore, not restricted to a criticism of Mommsen, but passes in review the theories of Danz, Geib, Girard, Ihering, Madvig, Rein, Wlassak, Zumpt and others. As its purpose is primarily critical, it does not pretend to be a systematic and exhaustive survey of the subject-matter of the criminal law. It yet follows a fairly well-conceived plan in the discussion of the various problems under review, proceeding from the beginnings of the law in early religious customs to the character of the criminal jurisdiction under the principate.

The average student of the Roman law, who may have accepted without question the views of Maine and other writers, will no doubt be greatly surprised at the large number of disputed points which have risen in connection with the study of this subject. That the beginnings of the law were closely connected with the early Roman religion, is a matter of common knowledge; but why the one who had committed a capital offense was regarded as a *homo sacer*, a consecrated or devoted man, is a problem upon the solution of which authorities do not agree. That the early Roman father possessed a sort of criminal jurisdiction over the members of his own household is unquestionably true; but that the right of the state to punish is derived from the notion that the king is the father of his people and that the early *imperium* is genetically related to the *patria potestas*—a view attributed to Mommsen and widely accepted—our author holds to be quite untenable. The earliest form of an action—the *actio sacramenti*—is partly explained as an attempt to restrain "self-help," by the adoption of a symbolized form of judicial combat (*manuum consertio*) and the reference of the matter in dispute to a *judex*, or *arbiter;* but the precise nature of the *sacramentum*, or judicial wager, which gave its name to this action, is variously interpreted, and presents to the author a highly interesting subject of inquiry. Did the public criminal law begin only with the Valerian law, which granted an appeal to the people? Did the so-called "right of appeal" (*provocatio*) always involve a previous condemnation by the magistrate? By what process was jurisdiction assumed over a new crime not specified by statute? Such is a specimen of the great number of questions con-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sidered by the author. Their discussion affords an opportunity to set over against one another the divergent views of legal writers, and to test the relative value of these views by a critical examination of historical facts. In the treatment of these problems the author gives abundant evidence of a judicial mind, in giving due weight to the opinions of others, and in not assuming a dogmatic air in the expression of his own.

For the general student of legal practice, the greatest interest will no doubt be attached to the discussion of the "rudiments of the jury system," and its general adoption in criminal trials. If the essential principle of the jury system consists, generally speaking, in the separation of questions of law and questions of fact, and the decision of the former by a judicial magistrate and that of the latter by a non-professional person or body, then some form of the jury system existed at Rome from the earliest times. The primary basis of this system is found in the early distinction between the proceedings *in jure*, which took place before the magistrate, and the proceedings *in judicio* which took place before the *judex*—a distinction which existed in the earliest civil action. But in place of a single juror (*unus judex*) the questions of fact were often referred to a body of jurors (the *arbitri*, or the *decemviri litibus judicandis*, or the *centumviri*). The nearest approach to criminal trials which took place under the forms of the "sacramental" action, were those in which provincial officers were made liable for extortion (*repetundae*) and tried before a body of jurors called *recuperatores*, presided over by a magistrate. But still the procedure in such cases conformed to the previous civil practice, and were in no proper sense public trials.

The earliest crimes proper, or those triable by a public process, were really capital offenses, in which the *caput* of a citizen was at stake. These were at first prosecuted by a magistrate, subject to an appeal to the popular assembly; or else prosecuted, in the first instance, by the assembly, which also rendered the judgment (*judicium populi*). The point which is insisted upon by the author and which requires a satisfactory explanation, is the fact that "criminal charges in Cicero's time were almost exclusively tried before a body of jurymen presided over by a magistrate." These courts finally received the name of *questiones perpetuae*. It is upon the origin and nature of these courts that the author finds himself entirely at variance with Sir Henry S. Maine. According to the theory of Maine—the real origin of which our author attributes to Geib—the early public trials were simply special acts (*privilegia*) passed by the popular assembly, and directed towards a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

particular offender. In the course of time, according to Maine, the people's power of rendering judgment was delegated to "a committee of the legislature," which "exercised all powers which that body was itself in the habit of exercising, even to the passing sentence on the accused"—so that the *questiones perpetuae* were simply "standing committees" of the popular assembly exercising judicial functions delegated to them. Against this theory, which has for its chief recommendation its apparent simplicity and certain analogies found in other communities, our author presents convincing proofs. Without attempting to analyze his argument the conclusion is drawn that the *questiones perpetuae* were in no proper sense "standing committees" of the legislature, but were veritable criminal courts organized after the model of the previous civil courts in which the *recuperatores* performed the functions of jurymen (*judices*). It thus becomes evident that under the Republic the jury system became an essential feature of both civil and criminal trials. The general absence of jury trials from modern civil law countries, is explained by the fact that these countries derived their jurisprudence from the later Empire and not from the Republic.

It is beyond the scope of this review to touch upon other topics discussed in this important work, such as the mode of empaneling jurors, the steps of criminal procedure before jurors, and the modified character of the criminal courts and the nature of appeals under the principate. There are few points of criticism to be made upon such a work as this, since such criticisms would be hardly more than expressions of dissent from the author's views. Attention might be called to the author's rather summary statement that there was nothing in the Roman procedure "like a law of evidence in our sense of the words." While it is impossible to find in the writings of the Roman jurists anything comparable to Justice Stephen's *Digest of the Law of Evidence*, it is yet true that certain customs were observed regarding the admissibility and weight of evidence. For example, irrelevant facts are excluded (*Code*, 4, 19, 17; 7, 16, 17; 4, 19, 10; 4, 19, 22)—a copy of a document is not admitted if the original can be produced (*Digest*, 22, 4, 2)—public records are preferred to witnesses (*Digest*, 22, 3, 10)—entries made in the books of a creditor, unless otherwise supported, do not bind the debtor (*Code*, 4, 19, 5 and 7)—the testimony of certain persons is excluded, not only idiots and criminals, but persons under twenty years of age in criminal cases (*Digest*, 22, 5, 20), also slaves as against their masters (*Digest*, 22, 3, 7), also persons closely related to the parties in a suit (*Digest*, 22, 5, 6)—the burden of proof rests on him that affirms, not on

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

him that denies (*Digest*, 22, 3, 2). These and similar rules show that the Romans possessed at least something like a law of evidence, though of course less highly developed than that of the modern English law.

In placing a high estimate upon the relative value of this work, it has not been the intention to disparage the merits of such a really excellent book as that of Greenidge on "The Legal Procedure of Cicero's Time"—a book which contains perhaps the clearest general summary of the criminal practice of the later Republic accessible to the English student, and in fact a book which furnishes an admirable preparation for the study of the more critical work of Strachan-Davidson.

WILLIAM C. MOREY.

The World's Legal Philosophies. By FRITZ BEROLZHEIMER. Translated from the German by Rachel Szold Jastrow. Modern Legal Philosophy Series. vol. II. (Boston: The Boston Book Company, 1912. Pp. lxvii, 490.)

Comparative Legal Philosophy Applied to Legal Institutions. By LUIGI MIRALGIA. Translated from the Italian by John Lisle. Modern Legal Philosophy Series. vol. III. (Boston: The Boston Book Company, 1912. Pp. xl, 793.)

These two works were evidently selected for the "Modern Legal Philosophy Series" because in a measure they complement each other. If from Berolzheimer's work one may get the idea that nearly all things worth while, in philosophy or jurisprudence, were "made in Germany," Professor Miraglia will impress the reader with the notion, that most thinking in these fields has been done in Italy. Between the two, an American student ought to get a very fair knowledge of the subject.

He will do so, provided that he manages to understand the subject matter without first going back to his undergraduate work and taking the course in general philosophy which in all probability he failed to take. Without some such preliminary training, it is not clear how he will get much good, among other things from the first part of Miraglia's work, which is a series of exceedingly brief, one might say epigrammatic characterizations of the various systems of philosophy following each other in history. The excessive brevity of these historical paragraphs makes it quite impossible to understand what the writer means, unless one is already acquainted with the body of thoughts referred to.

Berolzheimer also presupposes an acquaintance with the main facts

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of the history of philosophy, and the principal technical terms employed by philosophers; but he does not aim at a complete review of all previous thought. This leaves him free to deal at some length with those philosophers whose work is most important for the student of the philosophical basis of law, and it ought to be quite possible for an American lawyer without previous philosophical training to study this work profitably, provided he has some good reference books at his side. For an introduction to "legal philosophy" in the proper sense, the German work seems to be the better adapted; but Professor Miraglia's work will be found exceedingly useful for acquiring a clear notion of the various fundamental concepts of positive law. To this work, the entire second half of the book is devoted.

Miraglia's work dates back some forty years, while that of Professor Berolzheimer was first published in 1905. The difference in time is apparent on every page. The Italian work is imbued with the spirit of the old-fashioned "*laissez faire*" school, although in the edition from which the translation was done a few concessions have been made to the modern spirit of social solidarity. The present stage of capitalism, with its tendency towards combination and monopoly, seems to be quite unknown to the writer. In other ways the work has the earmarks of superannuation. Who, in the presence of modern knowledge of Babylonia, would still speak of the Phoenicians as the "inventors of writing?" As compared to this, Berolzheimer represents the very latest phase of philosophical and juristic thought, so that in this respect also the two works are complementary of each other and justify the judgment of the men who selected them for this series.

The translation of technical works presents difficulties of the very highest order, and these are doubled where familiarity is required with the terminology not of one, but of two intricate sciences. At the same time, faulty translations may almost destroy the usefulness of a work of this character, besides being a grave injustice to the author. If attention is called, below, to a number of obvious and grave errors in translation, this does not necessarily imply that the translators have done their work carelessly or were incompetent. It is done merely so that in a new edition these particular pitfalls may be avoided. The ideal translator must still be born.

Of the two, Professor Berolzheimer's book has suffered the least in the operation. Yet occasionally very annoying errors obscure the sense. Thus "civic" is rarely a proper translation of "*bürgerlich*." In most places where it occurs "middle class" would have given the true meaning.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

On page 162, what can an American lawyer understand by "code of the common law of Prussia?" If it is common law, it would not seem to be a code. What is meant is "codification of the law of Prussia," known as the "*Allgemeine Landrecht.*" The German term analogous to common law is "*gemeine Recht.*" Page 197, "*Urrechte*" does not mean "primitive rights" but "absolute rights," almost precisely as used by Blackstone. "*Geist,*" page 222, second paragraph, should have been translated "intelligence," not "spirit." On page 225 the translation "unpremeditated wrong" is misleading. It should have been "näive wrong," a wrong committed without consciousness that it is wrong. On page 307, "manual labor" does not properly render "*Handwerk.*" What is meant is "artisanship." "*Demokratisierend*" is not "demagogic" but "democratizing." On the whole, the translator has been least successful where, instead of following closely the original, she has attempted practically to rewrite a paragraph. Examples may be found on pages 378, 437 and elsewhere.

Less praise can be given to the translation of Professor Miraglia's book. First of all, the proofreader was evidently no linguist. The number of typographical errors in the citations from foreign languages is so great that they constitute a very serious blemish. In fact, there is hardly a sentence in Latin, German or French without ridiculous errors, often such as to make the meaning unintelligible.

Of the errors of translation in this book, the least excusable are those—all too numerous—which were apparently caused by assuming too easily that an Italian word derived from the Latin has the same meaning as the English word of the same derivation. Thus, repeatedly the Italian "*onesto*" becomes "honest," where it means "right." On page 235, "*facultà*" should be "license," not "faculty." "*Fatale,*" on page 269, should be perhaps "predetermined," but certainly not "fatal." "Luminous," on page 380, should have been "clear." "*Esistenza errabonda,*" page 421, should have been "migratory existence," not "erring existence." On page 476, "*sottosuole*" is not "subsoil," but the things below the earth, such as minerals or water. Page 483, "*prezzo del lavoro . . . . normale*" means, on the other hand, the "normal" price, just as in English, and not "average." Occasionally, the translator follows the Italian spelling, so that, for instance, on page 516 our old friend of school days masquerades as "Zenophon." Cases of this kind could be multiplied almost from every page.

More serious, but also less easily avoided, are errors caused by a misunderstanding of juristic or philosophical technical terms, or an unsuc-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

cessful attempt to supply an English technical term where one does not exist.

On page 424, "*liberi livellari*" are by no means "freedmen." The meaning would more nearly be rendered by "freeholders." In the context found on page 426, eminent domain does not render "*dominio eminente*"—what is meant is feudal overlordship. The chapter on "*Obbligazione*" is entitled "Obligations," and in the text come such expressions as "obligations sounding in tort," which to an American lawyer sounds like a most wonderful thing. It is of course asking too much of a translator to make a new technical language, but where the English word commonly has an entirely different meaning, it would have been wise in a foot note to supply an explanation. The unfortunate failure of our English law to have distinct terms for "*lex*" and "*jus*" is no excuse, however, for the remarkable statement, on page 242, that "in Greece there is no word to signify 'law,' because it is resolved in the universal concept of justice." "Right" would at least have come near to expressing the meaning of the text. The term "*dolo*," like its Roman law ancestor "*dolus*," has troubled many a translator in the past. On page 57 it is repeatedly translated fraud, and as a result comes this sentence: "A tort is the result of fraud or harm." What is meant is: "Tort consists of both evil disposition and damage done." The American lawyer must certainly stare when he reads, in section 374, that bailments are contracts without consideration, and much more to similar effect. The whole trouble comes from translating the term "*causa*" by consideration. What the English common law terms a consideration may sometimes be the "*causa*" of a contract, but that term comprises a great many other things. There were other pitfalls in this section, which the translator failed to avoid, more particularly the term "pledges, bailments," which he interpolated unnecessarily in the enumeration of various species of gratuitous contracts. A more correct version would have been "Deposit, loan for use, and gift." Obviously, a pledge is not a "gratuitous" contract, and bailment is a mere general term. On page 737, section 495, what meaning can any one connect with the words: "The right of relationship and the active and passive solidity of the connotation of the family were absolute?" The Italian text, which is not at all obscure, means simply: "The right of the parentele, and the solidarity, active and passive, of the members of the family, were absolutely dominant." Many similar errors could be cited.

The truth is, that English legal terminology is so undeveloped, that at the present time it is not possible to translate a continental law book

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

without either failing often to convey to the English reader the real meaning of the original, or to make the whole most cumbersome by constant explanations and circumlocutions where the original uses a single, concise phrase. A third way might be to leave a good many foreign law terms untranslated and to add a very full glossary. Perhaps one of the first results of the publication of the present series may be an endeavor on the part of American lawyers to make our own technical languages more precise and full. This again cannot be done without more careful definition and delimitation of the legal concepts for which these terms stand. Thus a few steps may be made in the direction of a legal science for the countries of the English common law, comparable to what is meant thereby on the continent of Europe.

ERNEST BRUNCKEN.

A Short History of the English Law. By EDWARD JENKS. (Boston: Little, Brown and Company, 1912. Pp. xxxviii, 390.)

This important work by the Director of Legal Studies of the Law Society in London covers its subject in succinct, comprehensive, and accurate fashion, as the title page states, "from the earliest times to the end of the year 1911." Every lawyer should read the book and every student of political science will find it of interest and value to him. Although the style is direct and the expression of the facts is clear, the subject is one which is highly technical in some of its aspects, from which thing it follows that a certain amount of legal knowledge is necessary to appreciate parts of the narrative. Holdsworth's monumental work already has reached its third volume and, in its narrative of the substantive law, has reached only to the time of the Tudors, so that the severest compression was necessary in order to bring the material which Mr. Jenks has used into the compass of one medium sized volume. It is interesting to note that the American edition of the work is dedicated to Mr. Justice Holmes and the frequent references to the *Select Essays in Anglo-American History* are additional proofs that the historical study of the common system of law of England and America has not been limited to either side of the Atlantic. One feature of the book which makes its use extremely convenient is its frequent cross reference by note to the pages where related topics are discussed, making it possible to follow out one topic without wandering helplessly through the whole book. The work is chronologically divided into four periods and the relative

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

amount of space given them is interesting. The period before the Norman Conquest is treated in twelve pages; that extending to the death of Henry III receives fifty pages; the third division from Edward I to the close of the Commonwealth has one hundred and eleven pages devoted to it; while the last period, from the Restoration to the present day, covers one hundred and ninety-four pages, or a full half of the book. Since neither Reeves, Pollock and Maitland, nor Holdsworth treats of the modern history of the law, this division has a great advantage in giving a needed key to the labyrinthine development of modern law. One impression made on the reviewer, however, is that a very great part of the present English law is that which has been enacted or is found in decisions of the courts since 1776 and so is not what was claimed by Americans as a part of their inheritance at the time of the Declaration of Independence. The statements of the author are remarkably accurate, when their brevity is considered and there are very few slips in the proof reading, though on page 364, 1895 should be 1859. The author does not hesitate to criticise the decisions of courts, when he disagrees with them, as in the Taff Vale Case (page 328). In his whole interesting discussion of labor legislation in the latter part of the chapter on "Contract and Tort in Modern Law," he shows considerable sympathy with the contentions of the workingmen and of the trades unions. Space forbids us to do more than to point out a few of the illuminating pages of this book. The chancery reforms of the fifties and the later judicature acts are admirably summarized in the chapter on modern civil procedure. The development of the jury is described with great clearness (page 47). The treatment of the early law of chattels (pages 54–67) is fresh and vivid. The work of the Commonwealth cannot be forgotten, as it is by most lawyers, and the remarkable scheme of law reform put forth by a parliamentary committee in 1653 is fully described (page 178). A peculiarly important chapter is devoted to the very considerable legal reforms accomplished by the equity courts of the eighteenth century (pages 207 to 236), which reforms are not sufficiently remembered. The book avoids, of set purpose, any extensive discussion of "the origin and development of the courts, and the relations of the State towards its subjects," as these topics had been recently and sufficiently treated by other authors. This avoidance enables the author to cover the remaining topics of legal history with far greater adequacy and to produce a work which will take its place at once as the standard brief history of the law.

BERNARD C. STEINER.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Abbé Sieyès. An Essay in the Politics of the French Revolution. By J. H. CLAPHAM. (London: P. S. King and Son, 1912. Pp. vii, 268.)

As the author gratefully acknowledges in his preface, this book is the result of a suggestion of the late Lord Acton in his inspiring lectures at Cambridge on the French Revolution. In two ways, Mr. Clapham has rendered a distinct service, he has written a careful biography of a remarkable man, and he has produced such an account of the political evolution of France during the revolutionary period as only the trained scholar can achieve. Moreover, there was special need of a biography of Sieyès, for the only other modern account of his life is that of M. Newton, published in 1900.

In the first of his eight chapters, Mr. Clapham gives a concise sketch of the Sieyès family, and of the making of the Abbé's opinions. Like Voltaire, he was educated chiefly by the Jesuits, of whom he became a formidable and implacable enemy. "That body he hated, as he hated most of the other corporate bodies of the old order, Parlements and chartered companies and guilds." Indeed, "Emmanuel, it would seem, was a child of no religious bent, who never acquired so much as an interest in the service of the church." He was ordained priest in 1773, but before that event, as he declared twenty years later, he had "succeeded in dismissing from his own mind every notion or sentiment of a superstitious nature:" a "complete preparation for the Christian ministry," adds the author. His actual religion was inspired by the generous humanism of the eighteenth century philosophy.

Before the Revolution, Sieyès's theory of the state, his "system" of political thought, was virtually completed. It is in tracing the growth, appraising the value, and pointing out the applications of the Abbé's doctrines, throughout the many vicissitudes of his broad span of life, which ended in 1836, that Mr. Clapham has rendered his chief service. Sieyès was not a great statesman. Perhaps he must be classed not above the second or third rank. Yet, the importance of his place in history and the quality of his thought have been much underrated. For practical politics he had unique talent; and in surprisingly many ways he anticipated the most progressive views of our age. His adversaries learned that "he had a long and sure sight." He was a "long-sighted tactician;" and rightly it has been said that he had a genius "for finding the key to a given political position." Hence he was a "dangerous tactician, whose influence both on ideas and on affairs had to be reckoned

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

with at each crisis of the Revolution." Moreover, throughout his career the Abbé stood by his system. In the main, he was true to his political faith. He was sometimes a coward; he committed base acts; he degenerated in character; yet he seldom lost an opportunity to put to the test the doctrines which he believed in as essential to a free state.

It is this constancy, this consistency, which renders the life of Sieyès so instructive to the student of political theory. In the chapters which deal in succession with the larger phases of the Abbé's career, Mr. Clapham has taken much care to trace the expression of the ideas of Sieyès in laws, the constitutions, and the political programs on which his influence was brought to bear. For this reason, aside from the excellence of the narrative, his book will be a singularly helpful guide to the constitutional development of the revolutionary period.

GEORGE ELLIOTT HOWARD.

The Democratic Mistake. Godkin Lectures of 1909 delivered at Harvard University. By ARTHUR GEORGE SEDGWICK. (New York: Charles Scribner's Sons, 1912. Pp. 217.)

The Relations of Education to Citizenship. By SIMEON E. BALDWIN. (New Haven: Yale University Press, 1812. Pp. 178.)

Government by All the People. By DELOS F. WILCOX. (New York: The Macmillan Company, 1912. Pp. viii, 324.)

Direct Elections and Law Making by Popular Vote. By EDWIN M. BACON and MORRILL WYMAN. (Boston: Houghton Mifflin Company, 1912. Pp. iv, 167.)

The Oregon System. By ALLEN H. EATON. (Chicago: A. C. McClurg and Company, 1912. Pp. viii, 195.)

The efforts of the American people to bring their eighteenth century constitutions into accord with twentieth century needs are the source of much political literature, which while the particular theme may vary is all related to a common movement of thought. The recent publications in this field instanced above may therefore be advantageously brought together for consideration.

In writings of a propagandist character a state of logical inversion is often found in the argument. Instead of the conclusions resting upon the premises the premises rest upon the conclusions. Assumptions are

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

made which are not in accord with the facts but which are required to sustain the conclusions which the writer seeks to establish. Mr. Sedgwick's work is a striking example of this kind of argument. It abounds with fallacies laid down as political dogmas.

For instance, he observes that "there is nothing that popular bodies like legislatures are fonder of than confiscations of property." This is a premiss from which he infers the need of an independent judiciary, but is it true as a matter of fact? The courts of Switzerland cannot set aside legislative determinations, but do Swiss legislative bodies show any fondness for confiscation? In most of the Canadian provinces there are no senates and there are no constitutional prohibitions upon retroactive legislation or taking private property without compensation, but have those legislatures shown any fondness for confiscation?

In advocating curtailment of legislative activity, Mr. Sedgwick observes:

"It is often forgotten that the law of supply and demand applies with peculiar force to legislation. The assemblage of the legislature is virtually the establishment of a statute factory open to all comers; it fosters legislation of itself."

Here he offers as a general statement what is true only of the particular kind of legislature found in the United States. Canadian legislatures meet annually, but the number of bills introduced and considered is comparatively small. Swiss legislative bodies meet even more frequently, without any disposition toward becoming a statute factory.

Mr. Sedgwick holds that "the machine" is the outcome of "patronage," and hence "whatever enlarges the total sphere of the federal and state governments also increases the power of the machine as a whole." But to keep governmental functions low merely sets a mechanical limitation to abuse of patronage. High function in Germany and Switzerland has multiplied functionaries, but the process has not created a machine. The connection which Mr. Sedgwick finds between public employment and the party machine in this country exists but it is adventitious and there is no inherent relation of that nature.

If it were worth while to pursue the analysis further it might be shown that Mr. Sedgwick's panacea of civil service reform is by no means the essential concomitant of good government that he assumes it to be. Municipal officials in England hold office at the pleasure of the mayor and city council, and although their tenure in practice is permanent during good behavior that is due to conditions inherent in the constitution of municipal government and not to civil service regulations. The same

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

observation applies to municipal government in general throughout Europe. Indeed, there are many instances throughout the civilized world—in Switzerland, for instance—where public service is carried on efficiently without anything in existence like what is designated in this country as civil service reform. Mr. Sedgwick is right in his main thesis that responsible government cannot be obtained by the ballot alone, and that the multiplication of elections is an evil, but his diagnosis of the disease is confused and deficient.

Governor Baldwin considers *The Relation of Education to Citizenship* from various points of view, and he has wise and instructive things to say on each aspect of the case. He notes that the tendency of modern university education to produce ignorant specialists is such that "the man whom the twentieth century counts as a scholar is therefore, in some respects, less fitted to lead the opinion of the community than were educated men in the previous ages." If this be true then the importance of scholarly education as a political asset may be less than he assumes it to be in these lectures. At times his criterion of propriety seems to rest on his own political prepossessions. He remarks that we can keep our country a republic "only by maintaining the dignity and sovereignty of the States within their spheres, and by steadily resisting all unnecessary extensions of Federal power." He adds: "Here is the opportunity and the public duty of every educated man." But suppose the educated man turns to Lowell's *Government and Parties in Continental Europe,* vol. II, p. 187, and reads how in Switzerland federal authority has been extended on grounds of administrative advantage to many important subjects which we leave to state authority, should the educated man conclude that Switzerland has ceased to be a republic? Or, to take another instance, it is mentioned that the courts have decided that legislation granting bounties is unconstitutional. If the educated man turns to *The Federalist,* No. 41, written by Madison, he will find that the encouragement of industry by bounties is referred to as a constitutional function. Which authority should the educated man prefer as conclusive as to his own views on the point—the intention of the makers of the constitution or the present opinion of the courts? Or, take the income tax. Is it the former opinion of the supreme court in favor of its constitutionality or the later opinion adverse to its constitutionality that an educated man ought to support by his influence? If the educated man examines the constitutional history of other countries would he be able to find an instance where legislative determination of public policy may be set aside by the courts? In such matters as these Governor

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Baldwin recognizes that education may exert an influence which from his point of view is a dangerous tendency. He remarks that "The educated man is especially liable to be affected by the currents of world politics," but he adds: "I do not think he always appreciates how differences in history and conditions between the United States and Europe renders impossible here, under our constitutional system, much that is possible there." If not, why not? To what is our assumed political incapacity due? May it be after all rather a matter of conservative opinion than a thing of actual facts? The educated opinion to which Governor Baldwin appeals as a bulwark for the existing order seems much more disposed, on his own showing, to supply guidance to processes of change.

The spirit in which Mr. Wilcox writes is illustrated by his preface in which he expresses his gratitude to those "who have spent their strength and haply lost their lives struggling to roll away the stone from the sepulchre of democracy." Certain reformers of the day are declared to be "annunciators and provers of the resurrection of the body-politic;" others are "the great apostles to the gentiles," while others, among them a distinguished university president, are "intrepid rear-guards of retreating paganism." Mr. Wilcox discusses the initiative, the referendum and the recall from this point of view, establishing their value by imputing to those instruments the merits of the intention with which they have been presented and advocated. There is little of true appreciation or of sound criticism in his work, but his review of objections has some utility through the incidental collection of data.

Messrs. Bacon and Wyman have produced a valuable work by supplying in concise form an account of the inception and development of the initiative, the referendum, the recall, the preferential ballot, etc. The work is done in a scientific spirit and is thoroughly documented. A very interesting feature is that which shows the ancient lineage of the initiative and the referendum. Brief as is this manual it is evidently the outcome of thorough study and careful research and its merits are such that it may be strongly commended as an authority in its field.

The practical operation of institutions of direct legislation is the theme of Mr. Eaton's account of *The Oregon System*. Any book which deals with achievements rather than pretenses in such matters possesses timely value, and a treatise so sensible and practical as this is eminently valuable. Mr. Eaton gives a detailed account of the practical use made of the initiative and referendum, writing as a cool observer and not as a heated advocate. He concludes that the advantages outweigh the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

defects, but he does not blink the fact that there are defects. Here is a side of the case which is usually kept dark or toned down.

"How would you like to live in a State where the people can and do amend their constitution in the most radical fashion by a minority vote; where one-third of the voters decides the fate of laws affecting the other two-thirds; where one-twentieth of the voters can and do cripple the state educational institutions by holding up their funds; where special interests hire citizens to circulate petitions asking for the recall of judges who have found them guilty; where men representing themselves as the people, buy signatures with drinks, forge dead men's names, practice blackmail by buying and selling at so much per name, signatures for petitions needed to refer certain measures to the people; a State where the demagogue thrives and the energetic crank with money, through the initiative and referendum, can legislate to his heart's content."

In view of such possibilities it is easy to understand why the English Liberal party opposes the introduction of the referendum as an institution likely to substitute class control for Democratic rule. And yet as compared with the conditions previously existing in Oregon present conditions are held to be an improvement. Mr. Eaton's treatise is well calculated to enforce the truth that institutions are purely instrumental in their nature and that their value is contingent upon circumstances.

HENRY JONES FORD.

Lord Durham's Report on the Affairs of British North America. Edited with an Introduction by Sir C. P. LUCAS. (Oxford: The Clarendon Press, 1912. 3 vols. Pp. 335, 339, 380.)

It is a fortunate and singularly appropriate circumstance that the first head of the Dominion Department of the Colonial Office should have undertaken the task of bringing out an authoritative edition of the momentous state paper to which the colonies are chiefly indebted for the subsequent grant of self-government.

The introductory volume furnishes us at the outset, with a brief sketch of Lord Durham's work and character together with a rapid but illuminating survey of political conditions in England at the accession of Queen Victoria.

The author's treatment of the origin and development of the spirit of discontent in the Canadas is much less satisfactory. The narrative contains little that is new or striking. The point of view is that of a high minded imperial official of liberal principles but conservative judgment.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Sir Charles seems strangely unfamiliar with the brilliant and sympathetic study of this period by Adam Shortt in his life of Lord Sydenham. It was indeed the refinement of cruelty to concede to the French Canadians the semblance of nationality and to the people of Upper Canada the form of representative institutions and yet to deny to them the means of self-expression and self-government. Such a mistaken policy could have but one result, rebellion.

The analysis and criticism of the *Report* is an excellent piece of work. Full of credit is given to the courage and clearness of vision, amounting almost to genius, with which his Lordship set forth his proposals for the settlement of the complex racial, economic and political problems of the country. The author's criticism of these proposals are keen and comprehensive. There is perhaps a tendency at times, as for example in respect to the formation of a federal union, to judge his Lordship's recommendations overcritically from the vantage ground of present day knowledge of the course of events rather than from the standpoint of the facts and conditions as they presented themselves to Lord Durham. But Sir Charles has not failed to point out most clearly the serious limitations of the *Report* and the occasional errors into which his Lordship has fallen in such matters as the development of the Wakefield land policy and the proposed anglification of the French Canadians.

The *Report*, it may be added, is open to more general criticism in respect to its cardinal principle of responsible government. Lord Durham failed to explain the mode in which he expected to set up a system of government prior to the anglification of the habitants and their conversion into faithful British subjects. His Lordship's recommendation in fact was based upon two doubtful assumptions, the loyalty and assimilability of the French Canadians and the willingness of the Upper Canada Reformers to join with the Family Compact for the maintenance of the supremacy of English laws and institutions, both of which assumptions were called in question by the Tory party.

Equally valuable is the author's discussion of the question of the applicability of the principles of the *Report* to imperial problems of today. The crown colonies are declared to stand outside the purpose of the *Report* since they are manifestly unsuited for self-government. In the self-governing colonies conditions have fundamentally changed since 1839. The new Dominions are no longer satisfied with the status of dependence which Lord Durham assigned to them. They are demanding the consummation of colonial autonomy in an acknowledgement of their status as equal and independent members of the Empire.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The volume closes with an extraneous reference to the question of home rule for Ireland. If the author felt it necessary to drag in a comparison of conditions in Ireland with those in Canada, it would certainly have been fairer to have based that comparison on the existing status of Quebec as a member of the Canadian Confederation rather than upon the former ill mated arrangements under the constitutional act and the act of union.

The second volume is devoted to the text of the *Report*, the value of which has been greatly enhanced by the author's scholarly notes. It is a striking commentary on the fortuitous character of English policy that this great document should have been buried for so many years among the governmental publications until resurrected by a London publisher to serve as a text for the discussion of Lord Milner's policy in South Africa.

The *Report* is something more than an incident in Canadian history. It marks a new era in English colonial policy. It partakes somewhat of the character of the Magna Charta and of the Federalist: it is at once the charter of Canadian freedom and an able exposition of the principles of colonial administration. It made the Empire possible and made it free.

In the concluding volume Sir Charles has rescued from the dark pages of the Blue Books the more important portions of the Appendixes to the *Report;* to which has been added "The Sketch of Lord Durham's Mission to Canada" now for the first time published in full.

Lord Durham has at last come into his own. In these three volumes is to be found the most fitting memorial to the founder of the school of Liberal imperialists.

C. D. ALLIN.

Der Staatenverband der Haager Konferenzen. By WALTER SCHÜCKING. (München und Leipzig: Duncker and Humblot, 1912. Pp. xii, 328.)

The main thesis of this volume is that, if not *expressis verbis*, yet *ipso facto* a World Confederacy was established by the first Hague Conference in 1899. Previous to this time the international community had a "purely anarchical character" (as Jellinek describes it), but the epoch of disorganization is now slowly and gradually giving way to a period of international or world organization. The main purpose of this organization is the maintenance of a general peace.

"On the road from Utopia to scientific knowledge which the modern

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

movement has traveled since 1815 . . . . . three steps of inner development can be clearly distinguished. Upon an ethical-religious period which battled against war, there followed a second epoch which was enthusiastically in favor of arbitration as a substitute for war. But since then the youngest race of pacifists have at length seen that, in order to set aside the causes of conflicts in the world of states (which have their roots in international anarchy) and to prevent war, it is not enough to create a court, but an international order must be established and the world organized" (p. 27).

Our author admits that the World Confederacy created in 1889 (of which the Arbitration Convention is the magna charta) is at present purely an organization for the administration of justice and that this judicial organization is merely embryonic, but he insists that it is none the less real or actual. In addition to the present Hague Tribunal or so-called Permanent Court of Arbitration and the institution of International Commissions of Inquiry, we shall have as organs of the new World Confederacy the International Prize Court and the Court of Arbitral Justice as soon as those tribunals shall have been established.

Among the tasks which Schücking sets for the third Hague Conference is that of formulating a *Statut* or constitution for the World Confederacy in which the rules for the organization of the conferences shall be incorporated. He has framed such a "Statut" consisting of thirteen articles with appropriate commentary which may possibly prove highly useful.

Exigencies of space forbid a further analysis or summary of this highly suggestive book. Though differing on some points, the reviewer finds himself in substantial agreement with the main thesis supported by the author. The only ultimate and effective solution of some of the greatest problems of our time, including these of the establishment of free trade and the maintenance of international peace, can be found in the organization of the world through the federative process. As early as 1906 (see article in the *American Journal of International Law* for 1908, p. 44) he (the reviewer) thus expressed himself: "The federation of the world is often regarded as a mere vision of poets or a dream of philosophers. But it may be observed that in the Hague Tribunal, or so-called Permanent Court of Arbitration, we already have, albeit in rudimentary form, a world judiciary; in the system of periodical Hague Conferences, we have at least the rude beginnings of a world legislature; and in the Administrative Council and International Bureau at The Hague, we may in time discover the germ of a world Executive."

AMOS S. HERSHEY.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

RECENT GOVERNMENT PUBLICATIONS OF POLITICAL INTEREST

CARL HOOKSTADT

Library of Congress

UNITED STATES[1]

American Historical Association, Annual report of, for the year 1910. 1912. 725 p. 8°. *American Historical Association.* (H. doc. 154.)

Attorney-General of the United States, Annual report for the year 1912. 1912. 460 p. 8°. *Dept. of Justice.* (H. doc. 930.)

Cases Involving the Constitutionality of the White Slave Traffic Act. Brief for the United States. (Nos. 381, 588, 602 and 603. In the Supreme Court of the United States, October term, 1912). 1913. 56 p. 8°.

Catalogue of the Public Documents of the 60th Congress and of all departments of the government of the United States for the period from July 1, 1907, to June 30, 1909. 1912. 1830 p. 4°. *Government Printing Office. Superintendent of Documents.*

Congressional Directory (Official). 62d Congress, 3d session. Dec., 1912. xv, 489 p. 8°. *Congress. Joint Committee on Printing.*

Congressional Regulation of Injunctions. Hearings before the Committee on Labor, House of Representatives, 62d Congress, on pending anti-injunctions bill. 1912. 58 p. 8°. *House. Committee on Labor.*

Constitution, Jefferson's Manual and Rules of the House of Representatives of the United States with digest of practice, by Charles R. Crisp. 1912. viii, 648 p. 8°. *Congress. House.* (H. doc. 1109.)

The Courts and the Constitution. An address by Hon. George Sutherland before the American Bar Association, at Milwaukee, Wis., Aug. 28, 1912. Dec. 6, 1912. 16 p. 8°. *Congress. Senate.* (S. doc. 970.)

Foreign Relations, Message of the President of the United States on our. Dec. 3, 1912. 31 p. 8°. (H. doc. 927.)

The French Spoliation Claims, by George A. King. (Reprinted from the American Journal of International Law, 1912.) Dec. 4, 1912. 48 p. 8°. *Congress. Senate.* (S. doc. 964.)

Immigration, Relative to the further restriction of. Hearings before the Committee on Immigration and Naturalization, House of Representatives, 62d Congress. 1912. pt. 1–8. 8°. *House. Committee on Immigration and Naturalization.*

[1] All numbered documents and reports refer to the 62d congress unless otherwise specified.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Impeachment of Robert W. Archbald, Briefs filed with the Secretary of the Senate in the trial of. 1912. 56 p. 8°.

Impeachment of Robert W. Archbald, Proceedings of the United States Senate in the trial of, ... July 19–Dec. 19, 1912. 1048 p. 8°.

International Law Situations with solutions and notes, 1912. 206 p. 8°. *Naval War College.*

Situations: 1, Merchant vessels and insurgents; 2, Air craft in war; 3, Cuba neutral; 4, Strategic areas; 5, Taking coal in neutral port; 6, Conversion of merchant ships into ships of war.

International Waterways Commission Progress Report. 1912. 122 p. 8°. *International Waterways Commission.* (S. doc. 959.)

Interstate Shipments of Intoxicating Liquors into "dry" territory. Hearing before a subcommittee of the Committee on the Judiciary, U. S. Senate, 62d Congress. 1912. 96 p. 8°. *Senate. Committee on the Judiciary.*

Interstate Traffic in Intoxicating Liquors. Hearings before the Committee on the Judiciary, House of Representatives, 62d Congress. 1912. 356 p. 8°. *House. Committee on the Judiciary.*

Investigation of the New York, New Haven & Hartford and Grand Trunk Railroad Agreement. Hearings before the Committee on Rules, House of Representatives on H. Res. 718, Dec. 10–11, 1912. 1913. 190 p. 8°. *House. Committee on Rules.*

Is our Representative Government Imperiled? By Francis T. A. Junkin. . . . . Dec. 17, 1912. 13 p. 8°. (S. doc. 983.)

The Judicial Code of the United States. In force Jan. 1, 1912 (including all amendments made prior to Feb. 6, 1912). 1912. 99, vii p. 4°. *House. Committee on the Judiciary.*

Limiting Federal Injunctions. Hearing before a subcommittee of the Committee on the Judiciary, U. S. Senate, 62d Congress, on H. R. 23635. 1912. 541 p. *Senate. Committee on the Judiciary.*

North Atlantic Coast Fisheries Arbitration, signed at Washington, July 20, 1912, Agreement between the United States and Great Britain adopting, with certain modifications, the rules and method of procedure recommended in the award of Sept. 7, 1910, of the. 1912. 7 p. 8°. (Treaty series no. 572.) *Dept. of State.*

Official Opinions of the Attorneys-General of the United States advising the President and heads of departments in relation to their official duties. Edited by J. A. Finch and Geo. Kearney. v. 28. 1912. xxxiv, 691 p. 8°. *Dept. of Justice.*

Parcel Post. Hearings before the subcommittee on parcel post . . . . under S. Res. 56. Feb. 10, 12, and Apr. 23, 1912. v. 5. 8°. *Senate. Committee on Post-Offices and Post Roads.*

Religious Garb in Indian Schools. Letter of the Secretary of the Interior to the Commissioner of Indian Affairs, Aug. 24, 1912. 1912. 26 p. 8°. *Dept. of the Interior.*

Review of Decisions of Interstate Commerce Commission by the Commerce Court, Hearings before the Commission on Interstate and Foreign Commerce, House of Representatives, 62d Congress, on H. R. 25596 and H. R. 25572 regarding the. pt. 1–5. 298 p. 8°. *House. Committee on Interstate and Foreign Commerce.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Rules of Practice for the Courts of Equity of the United States. Promulgated by the Supreme Court of the United States, Nov. 4, 1912. xix, 25 p. 8°. *Supreme Court.*

State Indemnity for Errors of Criminal Justice, by Edwin M. Borchard . . . . with an editorial note by John H. Wigmore. (Reprinted from Journal of Criminal Law and Criminology. Jan., 1913). Dec. 10, 1912. 33 p. 8°. (S. doc. 974.) Contains translations of European statutes in appendix.

Taxation of Corporations. pt. 4, Western Central States. Report of the Commissioner of Corporations on the system of taxing manufacturing, mercantile, transportation and transmission corporations in the States of Minnesota, North Dakota, South Dakota, Iowa, Nebraska, Kansas and Missouri. 1912. xiii, 144 p. 8°. *Bureau of Corporations. Dept. of Commerce and Labor.*

Trust Legislation. Hearings before the Committee on the Judiciary, House of Representatives, 62d Congress. 1912. pts. 1–8. *House. Committee on the Judiciary.*

Trusts in Foreign Countries. Laws and references concerning industrial combinations in Australia, Canada, New Zealand, and continental Europe. Comp. by Fred. A. Johnson. 1912. 164 p. 8°. *Senate. Committee on Interstate Commerce.*

United States Steel Corporation, Hearings before the Committee on investigation of. 8 vols. 1912. 8°. *House. Special Committee on the Investigation of the U. S. Steel Corporation.*

Woman and Child Wage-earners in the United States, Report on condition of. (Report to consist of 19 vols.) 1912. *Dept. of Commerce and Labor. Bureau of Labor.* (61st Congress, S. doc. 645.) v. 13. Infant mortality and its relation to the employment of mothers.

Workmen's Compensation. Opinions of the Solicitor for the Department of Commerce and Labor dealing with . . . . from Aug., 1908, to Aug., 1912. 1912. 646 p. 8°.

CALIFORNIA

Amendments to Constitution and Proposed Statutes, with arguments respecting the same to be submitted to the electors of the State of California at the general election on Tuesday, Nov. 5, 1912. Sacramento, 1912. 32 p. 8°. *Secretary of State.*

Constitution of California. Comp. by Frank C. Jordan. Sacramento, 1912. 59 p. 8°. *Secretary of State.*

Declaration of Rights of American Colonies, 1765 and 1774; declaration of independence, constitution of the United States and constitution of the State of California; also summary of amendments submitted and vote for and against each amendment, 1883–1911. Comp. by Frank C. Jordan. Sacramento, 1912. viii, 208 p. 16°. *Secretary of State.*

Statement of Vote of California at the direct primary election, Sept. 3, 1912, for members of the House of Representatives and of the Senate and Assembly. Comp. by Frank C. Jordan. 1912. Sacramento, 1912. 16 p. 8°. *Secretary of State.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

GEORGIA

Annual Report of the Secretary of State for the year ending Dec. 31, 1911. Atlanta, 1912. 214 p. 8°. *Secretary of State.*

IDAHO

Proceedings and Debates of the Constitutional Convention of Idaho, 1889. Edited and arranged by I. W. Hart . . . . v. 1-2. Caldwell, 1912. 8°. *Constitutional Convention.*

INDIANA

Election Laws of Indiana, in force Sept. 15, 1912; with instructions to voters and election officers and interpretation of the registration law and corrupt practices act. Indianapolis, 1912. 299 p. 8°. *Board of Election Commissioners.*

IOWA

History of the Codes of Iowa Law: III, The Revision of 1860. (In the Iowa Journal of History and Politics, v. 10, no. 3. July, 1912.) *State Historical Society.*

History of Congressional Elections in Iowa, by L. B. Schmidt. (In the Iowa Journal of History and Politics, v. 10, no. 4. Oct., 1912.) *State Historical Society.*

History of Road Legislation in Iowa, by John E. Brindley. Iowa City, 1912. xiii, 422 p. 8°. *State Historical Society.*

Report of the Employers' Liability Commission, 1912. Des Moines, 1912. 159, 250 p. 8°.

LOUISIANA

Report of the Secretary of State . . . . from April 15, 1910, to April 1, 1912. Baton Rouge, 1912. 120, 152, 51 p. 8°.

Tax Revision in Louisiana; its necessity and its practicability, by W. O. Scroggs. (University bulletin, v. 3, N. S., no. 10. Oct., 1912.) Baton Rouge, 1912. 23 p. 8°. *State University.*

MASSACHUSETTS

Number of Assessed Polls, registered voters and persons who voted in each voting precinct at the state, city and town elections, together with the number of votes received by each candidate for each office in the year 1911, with a statement of other matters relating to elections. Boston, 1912. 52, cxxxi; p. 8°. *Secretary of the Commonwealth.*

MISSOURI

Official Returns of the State Primary Election held August 6, 1912, for state officers, judges supreme court, representatives in congress, judges of circuit court and criminal courts, state senators, and other candidates not voted for wholly within the limits of a county, also for state representatives. Comp. by Cornelius Roach. Jefferson City, 1912. 52 p. 8°. *Secretary of State.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Roster of State and District Officers and vote cast Nov. 5, 1912, for state and district officers and constitutional amendments . . . . 1913. Comp. by Cornelius Roach. Jefferson City, 1912. 42 p. 8°. *Secretary of State.*

NEW HAMPSHIRE

The Report of the Public Service Commission on an investigation of railroad rates. Concord, 1912. vi, 377 p. 8°. *Public Service Commission.*

OHIO

Legislative Manual of the State of Ohio, 1912 . . . . Prepared and edited in the office of the clerk of the House of Representatives. Springfield, 1912. 264 p. 8°.

OKLAHOMA

The Oklahoma Red Book. v. 1. Comp. by Seth K. Corden and W. B. Richards. Oklahoma City, 1912. xvi, 674 p. 8°. *Secretary of State.*

Contents. History of Oklahoma, declaration of independence, articles of confederation, Constitution of the United States, enabling act and constitution of Oklahoma, election ordinance, Indian nations' constitutions, Indian treaties, patents, agreements, etc.

OREGON

A Pamphlet Containing a Copy of all Measures "Referred to the People by the Legislative assembly," "Referendum ordered by petition of the people," and "Proposed by initiative petition," to be submitted to the legal voters of the State of Oregon for their approval or rejection at the regular general election to be held Nov. 5, 1912, together with the arguments filed, favoring and opposing certain of said measures. Comp. and issued by Ben W. Olcott. Salem, 1912. 256 p. 8°. *Secretary of State.*

PENNSYLVANIA

Bill Drafting, by James McKirdy. Harrisburg, 1912. 22 p. 8°. *Legislative Reference Bureau.*

Smull's Legislative Hand Book and Manual of the State of Pennsylvania, 1912. Compiler, Herman P. Miller, Senate librarian; assistant compiler, W. Harry Baker, secretary of the Senate. Harrisburg, 1912. vi, 1082 p. 8°.

Tabulated Statement of the Votes Cast for the several candidates for the offices of presidential elector, representative in congress, senator in the general assembly and representative in the general assembly, in the several counties of the commonwealth at the general election held on Tuesday, Nov. 5, 1912. Harrisburg, 1912. 38 p. 8°. *Secretary of the Commonwealth.*

PHILIPPINE ISLANDS

Calendarios de la Asamblea Filipina, contendiendo el orden del despacho de los asuntos, calendarios de la Asamblea, directorio de diputados, lista de comités, registro de bills de segunda lectura, asuntos resueltos por la Cámara, lista de

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

miembros de la Comisión, comités de la Comisión, compromisos sociales y memorandum. Preparados por Ramon Diokno . . . . Nov. 17, 1910. Manila, 1910. 94 p. 4°.

Elección de Comisionados Residentes en los Estados Unidos. Record de los debates sostenidos entre los comités de conferencia de la Comisión de Filipinas y la Asamblea Filipina, con un breve relato de los hechos anteriores al nombramiento de dichos comités y un extracto de las actas de las Asamblea que dan idea de lo que ocurrió despues del informe de desacuerdo. Manila, 1911. 80 p. 8°.

Pension and Retirement Fund for the Philippine Constabulary, Report of a committee appointed on May 12, 1912 . . . . to study the question of a, and to prepare a bill for presentation to the Philippine legislature. Manila, 1912. 96 p. 8°.

TEXAS

Revised Civil Statutes of the State of Texas, adopted at the regular session of the 32d Legislature, 1911. Austin, 1912. xc, 1996 p. 4°.

Some Corporation and Taxation Problems of the State, and a statement of the reasons for an applied economics club. June 22, 1912. 146 p. 8°. (University of Texas bulletin: Humanistic series, no. 13.)

VERMONT

Finding List, legislative reference department, 1912. Montpelier, 1912. 111 p. 8°. *State Library.*

WISCONSIN

The Industrial Commission and its Predecessors, 1883-1912. 147-233 p. 8°. (Bulletin of the Industrial Commission. v. 1, no. 4.) *Industrial Commission.*

The Development of Sentiment on Negro Suffrage to 1860, by Emil Olbrich. 135 p. 8°. (Bulletin of the University of Wisconsin: History series. v. 3, no. 1.) *University of Wisconsin.*

INTERSTATE ASSOCIATIONS

Proceedings of the Fourth Meeting of the Governors of the States of the Union, held at Spring Lake, N. J., Sept. 12–16, 1911. Lakewood, N. J., 1911. 8°.

Proceedings of the National Convention of Insurance Commissioners of the United States, held at Spokane, Wash., July 23–26, 1912. Columbia, S. C., 1912. 253 p. 8°. *National Convention of Insurance Commissioners.*

Select List of References on the Valuation of Public Service Corporations. Comp. by Mary M. Rosemond, legislative reference assistant of the Iowa State library. Des Moines, 1912. 25 p. 8°. *National Association of Railway Commissioners.*

ARGENTINA

Memoria de relaciones exteriores y culto presentada al honorable Congreso nacional correspondiente al año 1911–12. Buenos Aires, 1912. xxxvi, 464 p. 4°.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

AUSTRALIA

Official Year Book of the Commonwealth of Australia. No. 5, 1912. xl, 1277 p. 8°. *Bureau of Census and Statistics.*

AUSTRIA

Erläuternde Bemerkungen zum Entwurf eines österreichischen Strafgezetzbuches. 1912. xv, 380 p. 4° (zu 90 der Beilagen zu den stenogr. Protokollen der Herrenhauses, 21 Session, 1912). Wien, 1912.

CANADA

Report of the Secretary of State for year ending March 31, 1912. Ottawa, 1912. x, 872 p. 8°.

FRANCE

Documents Diplomatiques, 1912. Affaires du Maroc, VI, 1910–1912. Pour faire suite à "Affaires du Maroc, V, 1908–10." 1912. xxii, 671 p. fol. *Ministère des affaires étrangères.*

Protectorat français dans l'empire Chérifien, Rapport fait au nom de la commission des affaires extérieures, des protectorats et des colonies chargée d'examiner le projet de loi portant approbation du traité conclu entre la France et le Maroc le 30 mars 1912, pour l'organisation du. 1912. 112 p. 4° *Chambre des Députés. Session de* 1912. No. 1994.

GERMANY

Systematische Zusammenstellung der Zolltarife des In- und Auslandes. E. Landwirtschaft, Nahrungs- und Genussmittel. 1912. lxxv, 505 p. 8°. *Reichsamt des Innern.*

GREAT BRITAIN[1]

Affairs of China, Further correspondence respecting. China, no. 3 (1912). [In continuation of "China, no. 1 (1912):" cd. 6148.] 1912. x, 218 p. fol. *Foreign Office.* (cd. 6447.) 1s. 10*d.*

Anti-Trust Legislation in the British Self-Governing Dominions, Report of. 1912. 25 p. fol. *Board of Trade. Commercial Dept.* (cd. 6439.) 3*d.*

Chinese Loan Negotiations, Correspondence respecting. China, no. 2 (1912). 1912. 17 p. fol. *Foreign Office.* (cd. 6446.) 2½*d.*

Divorce and Matrimonial Causes, Report of the Royal Commission on [including appendices and minutes of evidence]. 5 vols. 1912.

International Opium Conference held at the Hague, Dec., 1911–Jan., 1912, Report of the British delegate to the. Misc. no. 11 (1912). 1912. 39 p. fol. *Foreign Office.* (cd. 6448.) 4½*d.*

[1] The British parliamentary papers may be purchased from Wyman and Sons. Ltd., Fetter Lane, E. C., London. cd. refers to papers presented to parliament by command.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Panama Canal Act. Despatch to H. M. ambassador at Washington respecting the. Misc. no. 12 (1912). 1912. 17 p. fol. *Foreign Office.* (cd. 6451.) 2½*d.*

Public Records, First report of the Royal Commission appointed to inquire into and report on the state of the public records of a public nature. v. 1 (3 pts.) (cd. 6361, 6395, 6396.) Price, 6*d*, 1*s*, 5*d*, 1*s* 10*d*, respectively.

Russian and Japanese Prize Cases; being a collection of translations and summaries of the principal cases decided by the Russian and Japanese prize courts arising out of the Russo-Japanese war, 1904–5. Ed. by C. J. B. Hurst and F. E. Bray. v. 1, Russian cases. 1912. xv, 381 p. 8° *Stationery Office.*

West Africa. Departmental committee appointed to inquire into matters affecting the currency of the British West African colonies and protectorates. 2 v. 1912. fol. *Colonial Office.* Report, cd. 6426, 8½*d*; minutes of evidence, cd. 6427, 1*s*. 2*d*.

ITALY

Commissione parlamentare d'inchiesta sulla condizione degli operai delle miniere della Sardegna. Atti della Commissione. 4 v. 1911. fol.

MEXICO

Memoria Documentada del juicio de arbitraje del Chamizal celebrado en virtud de la convención de junio 24 de 1910. 3 v. 1911. *Comision internacional de límites entre México y los Estados Unidos. Sección Mexicana.*

NEW SOUTH WALES

Establishment of Superannuation Fund for the whole of the government services. Report of the committee and of the actuarial subcommittee. 1912. 55 p. fol. *Public Service Superannuation Committee.*

Official Year Book of New South Wales, 1911. Sydney, 1912. 777 p. 8°. *Bureau of Statistics.*

NEW ZEALAND

Imperial Conference, 1911. Minutes of proceedings and papers. 1912. 441, 302 p. fol. (v. 1, app. to Journals of House of Representatives, 1911; paper A-4.)

SAN SALVADOR

El Salvador ante el Conflicto Nicaragüense. San Salvador, 1912. 31 p. *Ministerio de relaciones exteriores.*

UNION OF SOUTH AFRICA

Interim Report of the Commission upon the Consolidation of South African Laws *re* patent, trade marks, copyrights and tacit hypothecations. 1912. 26 p. fol.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

INTERNATIONAL

Annuaire de l'Union Interparlementaire. Deuxième année, 1912. Publié par Chr.-L. Lange, secrétaire général de l'Union. Bruxelles, 1912. xii, 226 p. 8°.

Bericht über den XIII Internationalen Kongress gegen den Alkoholismus abgehalten im Haag (Scheveningen) vom 11–16 Sept. 1911. Utrecht, 1912. 582 p. 8°.

Bureau international de la cour permanente d'arbitrage. Protocoles des séances et sentence du tribunal d'arbitrage constitué en vertu du compromis d'arbitrage signé à Constantinople entre la Russie et la Turquie le 22 juillet–4 août 1910. Litige russo-turc relatif aux dommages-intérêts réclamés par la Russie pour le retard apporté dans le payement des indemnités dues aux particuliers russes lésés par la guerre de 1877–1878. La Haye, 1912. fol. 102 p.

Bureau international de la cour permanente d'arbitrage. Protocoles des séances et sentence du tribunal d'arbitrage constitué en exécution du compromis signé entre l'Italie et le Pérou le 20 avril 1910. Différend au sujet de la réclamation des frères Canevaro. La Haye, 1912. 22 p. fol.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

INDEX TO RECENT LITERATURE—BOOKS AND PERIODICALS

COLONIES

Books

Bussell, F. W., D.D. A new government for the British empire. New York: Longmans. Pp. 12, 108.

Ciancico, Scudero V. La politica estera dell'Italia. Catania: N. Giannotta. Pp. 289.

Devereux, Roy. Aspects of Algeria; historical, political, colonial. New York: Dutton. Pp. 72, 316.

Lapworth, Car. e Zimmern, Helen. Tripoli e la nuova Italia. Bologna: N. Zanichelli. Pp. xii, 410.

Pinchia, Em. L'impresa di Tripoli, il secondo periodo: diario politico aprile-giugno 1912. Roma: casa ed. Italiana. Pp. 215.

Stuart-Linton, Charles E. T. The problem of empire governance. New York: Longmans.

Wright, A., and Reid, T. H. The Malay peninsula: a record of British progress in the Middle East. New York: Scribners. Pp. 360.

Articles in Periodicals

Egypt. Judicial legislation in Egypt. *Norman Bentwich.* The Law Quarterly Review. Oct., 1912.

Imperialism. Towards an imperial foreign policy. *Sydney Low.* Fortnightly Rev. Nov., 1912.

Imperialism. Practical imperialism. *His Grace the Duke of Westminster.* Nineteenth Century. Nov., 1912.

India. The foreign policy of the government of India. *Q. P.* Westminster Rev. Oct., 1912.

India. Greater Britain: Canada, India. *E. B. O.*, and *Asiaticus.* National Rev. Dec., 1912.

India. Greater Britain and India: Canada, New Zealand. *E. B. O., Christ-Church,* and *Asiaticus.* National Rev. Oct., 1912.

CONSTITUTIONAL LAW

Books

Anson, William R. and others. Rights of citizenship. A survey of safeguards for the people. London: Warne. Pp. xii, 242.

Balfour, A. J. Aspects of home rule. (Selections from speeches.) London: Dutton. Pp. 4, 256.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Barnes, H. E., and Miller, Byron A. Selected cases on constitutional law. 3d ed. Philadelphia: Lyon and Armor. Pp. 237.

Bland. J. O. P. Recent events and present policies in China. Philadelphia: Lippincott.

Brooks, Sidney. Aspects of the Irish Question. Boston: J. W. Luce and Company. Pp. 225.

Cam, Helen M. Local government in France and England. London: Hodder and Son. Pp. 166.

Collins, C. W. The fourteenth amendment and the states. Boston: Little, Brown. Pp. 224.

Dingle, Edwin J. China's revolution, 1911–12; a historical and political record of the civil war. London: P. S. King and Son. Pp. xiv, 358.

Farquharson, Right Hon. Robert. The house of commons from within, and other memoirs. London: Williams and Norgate. Pp. 256.

Ferndndez-Pradel, Jorge. Le Chili après cent ans d'indépendance. Paris: G. Beauchesne. Pp. xxiv, 295.

Gebhardt, Dr. M. Verfassung u. Verwaltung des Deutschen Reiches nebst wichtigen Nebengesetzen. Ein Hilfsbuch f. die Examina in Justiz u. Verwaltg. sowie f. die Doktorprüfg. Berlin: J. Guttentag. Pp. x, 506.

Hasbach, Wilh. Die modern Demokratie. Eine polit. Beschreibg. Jena: G. Fischer. Pp. ix. 621.

Kahn, Dr. Jul. Die Abgrenzung des Gesetzgebungs u. Verordnungsrechts nach deutschen Reichsstaatrecht. Mainz: L. Wilckens. Pp. 160.

Lowell, Abbott Lawrence. The government of England. Rev. ed., with additional chapter. In two vols. New York: Macmillan. Pp. 17, 584; 8, 563.

McCarthy, Michael J. F. Irish land and Irish liberty. London: P. S. King and Son. Pp. 434.

McKechnie, William Sharp. The new democracy and the constitution. London: J. Murray. Pp. 224.

Masterman, J. H. B. Parliament: its history and work. London: Macdonald and E. Pp. 224.

Matienzo, José-Nicolas. Le gouvernement représentatif fédéral dans la république Argentine. Paris: Hachette. Pp. 380.

Peel, Hon. George. The future of England. London: Macmillan. Pp. viii, 243.

Redmond, J. E. The home rule bill. New York: Cassell. Pp. 8, 2, 178.

Samuels, Arthur Warren. Home rule finance, an examination of the financial bearings of the government of Ireland bill, 1912. London: Simkin. Pp. 334.

Vizetelly, Ernest Alfred. Republican France, 1870–1912. Her presidents, statesmen, policy, vicissitudes and social life. London: Holden and H. Pp. 524.

Wegener, Ernst. Die Verfassung u. Verwaltung des Deutschen Reiches u. des Königr. Preussen in populärer Darstellung. Berlin: R. Wichert. Pp. 240.

Worsfold, W. B. The union of South Africa. Boston: Little, Brown. Pp. 530.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Articles in Periodicals

Constitution. An eighteenth century constitution. *Frederic Bruce Johnstone.* Illinois Law Review. Dec., 1912.

Constitutional Law. Constitutional law in 1910–1911. *Eugene Wambaugh.* American Political Science Review. Nov., 1912.

Due Process. The evolution of due process of law in the decisions of the United States supreme court. *Francis W. Bird.* Columbia Law Review. Jan., 1913.

Fourteenth Amendment. Judicial construction of the fourteenth amendment. *Francis J. Swayze.* Harvard Law Review. Nov., 1912.

Fourteenth Amendment. *Stare decisis* and the fourteenth amendment. *Charles Wallace Collins.* Columbia Law Review. Nov., 1912.

France. Projet de réforme électorale adopté par la Chambre des députés. Revue du Droit Public et la Science Politique. Juil.-Août.-Sept., 1912.

Greece. Le contrôle des élections des députés en Grèce. Revue du Droit Public et de la Science Politique. Juil.-Août.-Sept., 1912.

House of Lords. La Réforme de la Chambre des Lords. *Marcel Sibert.* Revue du Droit Public et de la Science Politique. Juil.-Août.-Sept., 1912.

Impeachment. The impeachment of Lord Melville. *J. A. Lovat-Fraser.* The Juridical Review. Oct., 1912.

Ireland. The present status of the home rule question. *William J. Laprade.* American Political Science Review. Nov., 1912.

Ireland. The Ulster covenant. Editor. Quarterly Rev. Oct., 1912.

Ireland. Home rule in parliament. *Erskine Childers.* Contemporary Rev. Dec., 1912.

Ireland. Home rule and civil war. *L. Cope Cornford.* National Rev. Nov., 1912.

Ireland. Some aspects of the Irish Question. *R. H. Bradley.* Westminster Rev. Dec., 1912.

Ireland. Social aspects of home rule. *Stephen de Vere.* Nineteenth Century. Oct., 1912.

Negro Disfranchisement. The latest phase of negro disfranchisement. *Julien C. Monnet.* Harvard Law Review. Nov., 1912.

Ohio Constitution. Socialism in the Ohio constitution. *Hon. Daniel J. Ryan.* North American Rev. Nov., 1912.

Ohio Constitution. Ohio's new constitution. The Green Bag. Nov., 1912.

Patents. The proposed patent law revision. *Gilbert H. Montague.* Harvard Law Review. Dec., 1912.

Parliament Act. The parliament act and the British constitution. *William R. Anson.* Columbia Law Review. Dec., 1912.

Red Cross. The ninth international red cross conference. *S. A. Korff.* The American Journal of International Law. Oct., 1912.

Sherman Act. The reason for the continued uncertainty of the Sherman act. *Herbert Pope.* Illinois Law Review. Nov., 1912.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

INTERNATIONAL LAW AND DIPLOMACY

Books

Angell, Norman. Peace theories and the Balkan war. London: H. Marshall. Pp. 141.

Buxton, Noel. Europe and the Turks. London: Methuen. Pp. 130.

Dembski, V. Europe and the new sea law. A manual of international politics and maritime law. London: Simpkin. Pp. 224.

Einicke, Dr. Paul. Rechte u. Pflichten der neutralen Mächte im Seekrieg nach dem Haager Abkommen vom 18. 10. 1907. Tübingen: J. C. B. Mohr. Pp. xi, 405.

Estournelles de Constant, D'. Limitation des charges navales et militaires. Rapport rédige au nom de la commission chargée de discuter la question devant la Conférence de l'Union, à Rome, au mois d'octobre 1911. Paris: C. Delagrave. Pp. 91.

Hershey, Amos S. The essentials of international public law. New York: Macmillan. Pp. 47, 558.

Hill, David Jayne. L'état moderne et l'organization internationale. Traduction française de M. Émile Boutroux. Paris: E. Flammarion. Pp. xii, 307.

Hüttenheim, Dr. Erich. Die Handelsschiffe der Kriegführenden. Eine völkerrechtl. Studie. Breslau: J. W. Kern. Pp. xii, 72.

Koo, Vi Kyuin Wellington. The status of aliens in China. (Columbia Univ. studies in history, economics and public law.) New York: Longmans. Pp. 359.

Mahan, A. J. Armaments and arbitration; or, the place of force in the international relations of states. London: Harper. Pp. 268.

Martin, Fernand. Essai sur les droits et devoirs des états étrangers à une guerre à l'égard des navires des belligérants dans les ports neutres. Dijon, impr. de Darantière. Pp. x, 312.

Moritzen, Julius. The peace movement of America. New York: Putnam. Pp. 19, 419.

Mead, Lucia T. Swords and ploughshares; or, the supplanting of the system of war by the system of law. New York: Putnam. Pp. 12, 249.

Novicow, J. L'Alsace-Lorraine obstacle à l'expansion allemande. Paris: Félix Alcan.

Praitano, Giov. La fine dell'impero turco e l'avvenire dei Balcani. Bari: tip. Alighieri, di Lella e Casini. Pp. 253.

Queux, William Le. The Balkan trouble; or, an observer in the near east. Second edition. London: Nash. Pp. 310.

Sedgwick, F. R. The Russo-Japanese war. (The campaign in Manchuria—1904). New York: Macmillan.

Sternberg, Adalb. Die äussere Politik Oesterreich-Ungarns. Die Lösg. des östterreich. Problems. Berlin: R. Curtius. Pp. vii, 196.

Sturm, Dr. Aug. Die Einteilung des Rechts u. die Abtrennung des internationalen Privatrechts sowie des Friedensrechts. Berlin: F. Vahlen. Pp. 152.

Tittoni, J. Italien, der Dreibund u. die Balkanfrage. Berlin: Oesterheld and Company. Pp. 326.

Williams, F. Wells. Anson Burlingame and the first Chinese mission to foreign powers. New York: Scribner. Pp. 370.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Articles in Periodicals

Alsace Lorraine. Le nationalisme alsacien-lorrain. *Jacques Barth.* Revue des Sciences Politiques. Sept.-Oct., 1912.

Aviation. La prohibition de la guerre des airs. Rapport présenté à la Conférence interparlementaire dans la session de Genève (septembre 1912). *Auguste Beernaert.* Revue de Droit International et de Législation Comparée. xiv, 6. 1912.

Austria-Hungary. Austria-Hungary as a Balkan power. *R. W. Seton-Watson.* Contemporary Rev. Dec., 1912.

Balkans. The Eastern question and European war. *Politicus.* Fortnightly Rev. Dec., 1912.

Balkans. The triple entente and the present crisis. *W. Morton Fullerton.* National Rev. Nov., 1912.

Balkans. The drama of the Balkans and its closing scenes. *Sir Arthur Evans.* Contemporary Rev. Dec., 1912.

Balkans. The Turkish debacle. *Capt. Cecil Battine.* Fortnightly Rev. Dec. 1912.

Balkans. The war in the Balkans. *Svetozar Tonjoroff.* North American Rev. Dec., 1912.

Balkans. The Balkan situation: an American view. *Stephen Bonsal.* North American Rev. Dec., 1912.

Balkans. The outlook in the near east—the Balkan crisis in a nutshell. *J. W. Ozanne.* Nineteenth Century. Dec., 1912.

Balkans. The outlook in the near east—for El Islâm. *Marmaduke Pickthall.* Nineteenth Century. Dec., 1912.

Balkans. Europe and the war. *Sidney Brooks.* North American Rev. Jan., 1913.

Balkans. The Balkan question. *Edwin Maxey.* Forum. Jan., 1913.

China. The dismemberment of China. *E. J. Dillon.* Nineteenth Century. Oct., 1912.

Department of State. The history of the department of state. IX, X. *Gaillard Hunt.* The American Journal of International Law. Oct., 1912.

French Spoliation Claims. The French spoliation claims. III. *George A. King.* The American Journal of International law. Oct., 1912.

Foreign Affairs. The control of foreign affairs. *Philip Morrell.* Contemporary Rev. Nov., 1912.

Institute of International Law. La XXVIIIe session de l'Institut de droit international et ses travaux. *Albéric Rolin.* Revue de Droit International et de Législation Comparée. xiv, 5, 1912.

International Law. The law of nations. *Alpheus Henry Snow.* The American Journal of International Law. Oct., 1912.

International Law Association. Die Arbeit der "International Law Association" 1906 bis 1911. *Niemeyer.* Zeitschrift für Internationales Recht. xxii. Bd. 5. u. 6. Hf., 1912.

International Law Association. The twenty-seventh conference of the international law association. *Layton B. Register.* University of Pennsylvania Law Review. Dec., 1912.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Lausanne, Treaty of. The treaty of Lausanne. *E. Capel Cure.* National Rev. Dec., 1912.

Liquor. An international consideration of the liquor question. *C. G. Kidder.* National Municipal Review. Oct., 1912.

Mediterranean Crisis. The crisis in the Mediterranean. *Roland G. Usher.* Forum. Dec., 1912.

Mexico. The situation in Mexico. *Dolores Butterfield.* North American Rev. Nov., 1912.

Military Service. La question du service militaire des Française à l'Étranger. *Georges Scelle.* Revue Politique et Parlementaire. 10 Octobre, 1912.

Monroe Doctrine. The Monroe doctrine—its precept and practice. *Percy F. Martin.* Fortnightly Rev. Nov., 1912.

Monroe Doctrine. The Monroe doctrine abroad in 1823–24. *William Spence Robertson.* American Political Science Review. Nov., 1912.

Nicaragua. Our policy in Nicaragua. *A Friend of Justice.* North American Rev. Jan., 1913.

Opium Conference. The international opium conference. *Hamilton Wright.* The American Journal of International Law. Oct., 1912.

Panama. The Panama Canal act. *C. A. Hereshoff Bartlett.* The Law Magazine and Review. Nov., 1912.

Panama. The international status of the Panama Canal. *Edward S. Cox-Sinclair.* The Law Magazine and Review. Nov., 1912.

Panama. The canal diplomacy: a British view. *Leopold Grahame.* North American Rev. Jan., 1913.

Panama. The Panama canal. Quarterly Rev. Oct., 1912.

Panama. La loi américaine du 24 août 1912 sur le canal de Panama et le droit international. *Guillaume Kaufmann.* Revue de Droit International et de Législation Comparée. xiv, 6, 1912.

Panama. Panama: the difficulty and its solution. *J. Ellis Barker.* Nineteenth Century. Oct., 1912.

Peace. La Ligue de la Paix et de la Liberté. II. Le Congrès de Berne (1868). *Marc de Préaudeau.* Revue des Sciences Politiques. Nov.–Dec., 1912.

Red Cross. Avions sanitaires et conventions de la Croix-Rouge. *C. Julliot.* Revue Générale de Droit International Public. Nov.–Dec., 1912.

Prize. The "protocole additionnel" to the international prize court convention. *George C. Butte.* The American Journal of International Law. Oct., 1912.

Prize. Private property at sea in time of war. *Right Hon. Lord Avebury.* Nineteenth Century. Dec., 1912.

Rivers. La question des péages fluviaux en Allemagne au point de vue du droit international. *E. Engelhardt.* Revue Générale de Droit International Public. Nov.–Dec., 1912.

Spain. Le problème régionaliste en Espagne. *Angel Marvaud.* Revue des Sciences Politiques. Sept.–Oct., 1912.

Sugar Convention. La convention sucrière de Bruxelles du 5 mars 1902 et sa commission permanente. *A. Andre.* Revue Générale de Droit International Public. Nov.–Dec., 1912.

Russia. Russian-American commercial relations. *J. V. Hogan.* Political Science Quarterly. Dec., 1912.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Tibet. Some aspects of the Tibetan problem. *A. Strong.* Contemporary Rev. Oct., 1912.

Turkey. Turkey-in-Asia. *Lewis R. Freeman.* Forum. Jan., 1913.

Turkey. The crisis in Turkey. *Sir Edwin Pears.* Contemporary Rev. Nov., 1912.

JURISPRUDENCE

Books

Berolzheimer, Fritz. The world's legal philosophies. Translated from the German by Rachel Szold Jastrow. Boston: Boston Book Company. (Modern legal philosophy series.)

Gran, Gerhard. Jean Jacques Rousseau. Translated by M. H. Janson. New York: Scribner. Pp. 393.

Jones, Chester Lloyd. Statute Law Making. Boston: The Boston Book Company. Pp. 327.

Lodge, Eleanor C., and Ashby A. W. Oxford studies in social and legal history. Vol. III. New York: Froude.

McConnell, R. M. Criminal responsibility and social restraint. London: P. S. King and Son.

Ogburn, Wm. F. Progress and uniformity in child-labor legislation; a study in statistical measurement. New York: Longmans. Pp. 219.

Stephenson, And. A history of Roman law; with a commentary on the institutes of Gaius and Justinian. Boston: Little, Brown. Pp. 18, 513.

Tuor, Dr. P. Das neue Recht. Eine Einführg. in das schweizer Civilgesetzbuch. Zürich: Art. Institut Orell Füssli. Pp. xv, 505.

Articles in Periodicals

Admiralty. Maritime dominion. *M. Sanford D. Cole.* American Law Review. Nov.–Dec., 1912.

Codes. Les codes modernes et le droit romain. *Georges Cornil.* Revue de Droit International et de Législation Comparée. xiv, 5, 1912.

Common Law. The genius of the common law. V. Rescue and ransom. *Frederick Pollock.* Columbia Law Review. Nov., 1912.

Common Law. The genius of the common law. VI. Alliance and conquest. *Frederick Pollock.* Columbia Law Review. Dec., 1912.

Crime. The need of a scientific study of crime, criminal law and procedure—the American institute of criminal law and criminology. *Eugene A. Gilmore.* Michigan Law Review. Nov., 1912.

Criticism by Courts Judicial criticism of legislation by courts. *Charles G. Haines.* Michigan Law Review. Nov., 1912.

Jews. The Jew in his relations to the law of the land. *Max J. Kohler.* American Law Review. Sept.–Oct., 1912.

Judiciary. The courts and the people. *T. R. Powell.* Political Science Quarterly. Dec., 1912.

Judiciary. The independence of the judiciary. *William B. Hornblower.* Yale Law Journal. Nov., 1912.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Law. Theories of law. *Roscoe Pound.* Yale Law Journal, Dec.

Law. Law and liberty. *W. Jethro Brown.* Columbia Law Review. Nov., 1912.

Law. What is the law? *Joseph W. Bingham.* Michigan Law Review. Nov., and Dec., 1912.

Social Justice. Social justice and the courts. *Theodore Schroeder.* Yale Law Journal. Nov., 1912.

Spanish Jurists. Les jurisconsults espagnols et la science du droit des gens. *Ernest Nys.* Revue de Droit International et de législation Comparée. xiv 5 and 6, 1912.

Recall. The recall of judicial decisions—reply. *Albert M. Kales.* Illinois Law Review, Oct., 1912.

Recall. The recall of judicial decisions—a criticism. *Herbert Pope.* Illinois Law Review. Oct., 1912.

Uniform Legislation. The progress of uniform legislation, 1911–12. *Walter George Smith.* The Green Bag. Oct., 1912.

Uniform Legislation. Unifying Tendencies in American Legislation. *Ernst Freund.* Yale Law Journal. Dec.

MUNICIPAL GOVERNMENT

Books

Beard, C. Austin. American city government; a survey of newer tendencies. New York: Century Company. Pp. 9, 420.

Bruère, Henry. The new city government. New York: D. Appleton. Pp. 28, 438.

Munro, W. B. The government of American cities. New York: Macmillan. Pp. ix, 401.

Upson, Lent Dayton. Sources of municipal revenues in Illinois. Urbana-Champaign, Ill., Univ. of Ill. Pp. 126.

Articles in Periodicals

California Municipalities. Work of the league of California municipalities. *H. A. Mason.* National Municipal Review. Oct., 1912.

City and Country. How a town can help itself and the country. *Chester Lloyd-Jones.* National Municipal Review. Oct., 1912.

Civil Service Reform. Civil service reform progress. *John T. Doyle.* National Municipal Review. Oct., 1912.

Civil Service Reform. Civil service reform at Los Angeles. *Clinton Rogers Woodruff.* National Municipal Review. Oct., 1912.

Commission Government. Ten years of commission government. *W. B. Munro.* National Municipal Review. Oct., 1912.

Documents. Recent municipal documents. *Adelaide R. Hasse.* National Municipal Review. Oct., 1912.

Efficiency. Simplicity, publicity and efficiency in municipal affairs. *Clinton Rogers Woodruff.* National Municipal Review. Jan., 1913.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Efficiency. Bureaus of public efficiency. *Mertile Cerf.* National Municipal Review. Jan., 1913.

Executive. The theory of the new controlled-executive plan. *Richard S. Childs.* National Municipal Review. Jan., 1913.

Experts. The selection and retention of experts in office. National Municipal Review. Oct., 1912.

Experts. Expert city management. *W. D. Foulke.* National Municipal Review. Oct., 1912.

Graft. Recent graft exposures and prosecutions. *C. R. Atkinson.* National Municipal Review. Oct., 1912.

Home Rule. Municipal home rule in California. *Thomas H. Reed.* National Municipal Review. Oct., 1912.

Housing Question. Housing at the Los Angeles conference. *John Ihlder.* National Municipal Review. Jan., 1913.

Legislation. Current municipal legislation. *John A. Lapp.* National Municipal Review. Oct., 1912.

Los Angeles Charter. The discussion of the Los Angeles charter. *John J. Hamilton.* National Municipal Review. Oct., 1912.

Public Utilities. State v. municipal regulations of public utilities. *John M. Eshleman.* National Municipal Review. Jan., 1913.

Public Utilities. State v. municipal regulation of public utilities. *Lewis R. Works.* National Municipal Review. Jan., 1913.

Recall. Learning to use the recall. *Edward F. Mason.* National Municipal Review. Oct., 1912.

Reference Bureaus. Research and reference bureaus. *Edward M. Sait.* National Municipal Review. Jan., 1913.

Reports. Department of reports. *John A. Fairlie.* National Municipal Review. Oct., 1912.

Socialism. Socialism in California municipalities. *Ira Brown Cross.* National Municipal Review. Oct., 1912.

Street Railways. A suggested sliding scale of dividends for street railways, determined by quality of service. *James W. S. Peters.* National Municipal Review. Jan., 1913.

Street Railways. Chicago and Cleveland street railway settlements. *Delos F. Wilcox.* National Municipal Review. Oct., 1912.

Taxation. Municipal finances and taxation. *Edward L. Heydecker.* National Municipal Review. Oct., 1912.

Taxation. Taxation in Philadelphia. *Louis F. Post.* National Municipal Review. Jan., 1913.

POLITICAL SCIENCE (GENERAL) AND POLITICAL THEORY

Books

Arnold, Anna Estelle. Civics and citizenship; a text-book for the boys and girls of Kansas. Cottonwood Falls, Kan. (the author.) Pp. 5, 297.

Baldwin, Simeon E. The relations of education to citizenship. London: H. Froude. Pp. 188.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Belloc, Hilaire. The servile state. London: Foulis. Pp. 189.

Bryan, W. Jennings. A tale of two conventions; being an account of the republican and democratic national conventions of June, 1912; with an outline of the progressive national convention of the same year. New York: Funk and Wagnall. Pp. 28, 307.

Chatfield, F. Wesley, and Sewell, Silas M. Texas and the nation; civil government. Richmond, Va. B. F. Johnson. Pp. 332.

Chandler, G. Iowa and the nation. Revised, 1912. Chicago: Flanagan. Pp. 7, 354.

Davison, W. B. Government in Indiana; from the Indiana edition of Garner's Government of the United States. New York: American Book Co. Pp. 4, 96.

Dutton, S. J., and Snedden, D. Administration of public education in the United States. Revised edition. New York: Macmillan. Pp. viii, 601.

Eaton, Allen Hendershott. The Oregon system; the story of direct legislation in Oregon. Chicago: McClurg. Pp. 8, 195.

Fitch, C. Elliott. ed. Official New York, from Cleveland to Hughes. 4 vols. Syracuse, N. Y.: (The Author).

Galbreath, C. Burleigh, comp. Initiative and referendum; published for the constitutional convention of 1912. Columbus, Ohio: J. F. Hees. Pp. 102.

Garcia-Caldéron. T. Les démocraties latines de l'Amérique. Paris: E. Flammarion. Pp. 383.

Garner, J. Wilford. Government in the United States; national, state and local. Indiana ed. New York: American Book Company. Pp. 416, 96.

George, W. Reuben, and Stowe, Lyman Beecher. Citizens made and remade; an interpretation of the significance and influence of the George Junior Republics. Boston: Houghton Mifflin. Pp. 6, 264.

Gillett, Gabriel. Politics and religion. New York: Longmans. Pp. 22, 242.

Hanley, P. J. Hanley's revised political primer; a work explaining present political conditions. Washington, Ia. Evening Journal. Pp. 188.

Hosford, Hester E. Woodrow Wilson, his career, his statesmanship, and his public policies. Second ed. revised and enlarged. New York: Putnam. Pp. 24, 234.

Hughan, Jessie Wallace. American socialism of the present day. London: Lane. Pp. 292.

Hummel, Herm. Die volksparteiliche Fraktion im Landtag des J. 1911–12. Ein polit. Handbuch. Mannheim: J. Bensheimer's Berl. Pp. 99.

Humphrey, E. F. Politics and religion in the days of Augustine. New York: (The Author, 110 West 34th St.) Pp. 5, 220.

Jordon, W. G. The five national platforms dissected, classified, indexed; the platforms of the five political parties: democratic, progressive, prohibition, republican and socialist, for the year 1912, rearranged for instant reference. New York: (The Author). Pp. 46.

Malagola, Achille. Le teorie politiche di s. Tommaso d'Aquino. Bologna: tip. w. Bertie C. Pp. xii, 205.

Mollwo, Carl. Einige Grundfragen der heutigen deutschen Politik u. Wirtschaftspolitik. Berlin: J. Guttentag. Pp. 123.

Nitobé, Inazo. The Japanese nation. New York: Putnam. Pp. 334.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Payne, G. H. The birth of the new party; or progressive democracy; a complete official account of the formation and organization of the progressive party. New York: (The Author). Pp. 320.

Perris, G. H. Germany and the German emperor. New York: Henry Holt and Company. Pp. viii, 520.

Plass, Anna Alida. Civics in simple lessons for foreigners. Boston: Heath. Pp. 6, 187.

Rehm, Herm. Deutschlands politische Parteien. Ein Grundriss der Parteienlehre u. der Wahlsysteme. Jena: G. Fischer. Pp. vi, 131.

Robertson, J. M. The evolution of states. An introduction to English politics. London: Watts. Pp. 498.

Rose, J. Holland. The rise of democracy. London: Blackie. Pp. 276.

Ruffini, Francesco. Religious liberty. Translated by J. P. Heyes. New York: Putnam. Pp. 24, 536.

Schirmacher, Kaethe. Die Suffragettes. Weimar: A Duncker Verl. Pp. iv, 156.

Scott, Frank J. The evolution of suffrage. The remedy for the evils of the present rudimentary suffrage. New York: Longmans. Pp. 32.

Sowards, Moses Weldon. Delusions of Democracy. Richmond, Va. Waddy Company. Pp. 200.

Tarde, Gabriel. Penal philosophy. Boston: Little, Brown. Pp. 581.

Triplett, H. Franklin, and Haüslein, Ferdinand A. Civics: Texas and federal. Houston, Texas: Rein and Sons Company. Pp. 6, 163, 164.

Underwood, F. M. United Italy. New York: Doran.

Articles in Periodicals

Cabinet Officers. Cabinet officers in congress. *Perry Belmont.* North American Rev. Jan., 1913.

Civil Service. Political activity by civil service employees. *Robert Catherwood.* Illinois Law Review. Oct., 1913.

Competition. The need and proper scope of federal legislation against restrictions upon competition. *Frederick Hale Cook.* American Law Review. Sept.–Oct., 1912.

Democracy. Democracy or the demagogue. *Aristotle.* North American Rev. Nov., 1912.

Federalism. The federation of Europe. *Sir Max Waechter.* Contemporary Rev. Nov., 1912.

French Political Parties. Die politischen Parteien in Frankreich von 1871–1902. *Hubert Lagardelle.* Zeitschrift für Politik. V. Bd. Hf. 4, 1912.

Initiative. The workings of the initiative, referendum and recall. *John R. Haynes.* National Municipal Review. Oct., 1912.

Japan. Political parties in Japan. *E. W. Clement.* Political Science Quarterly. Dec., 1912.

National Church. Our national church and democracy. *W. E. Sims.* Westminster Rev. Oct., 1912.

Political Parties. Das ökonomische Element und die politische Idee im modernen Parteiwesen. *Dr. Emil Lederer.* Zeitschrift für Politik. V. Bd. Hf. 4, 1912.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Preferential Voting. A presidential preference vote and the electoral college. *John W. Holcombe.* Forum. Dec., 1912.

Primary. Forestalling the direct primary in Oregon. *J. D. Barnett.* Political Science Quarterly. Dec., 1912.

Proportional Representation. Electoral reform: the case for proportional representation. *J. F. Williams.* Contemporary Rev. Dec., 1912.

Proportional Representation. Democratic objections to proportional representation. *Clifford D. Sharp.* Contemporary Rev. Dec., 1912.

Public Service Commission. The New York public service commission. *John S. Kennedy.* Forum. Nov., 1912.

Railways. Les chemins de fer italiens et la gestion de l'État. *A. de Lavergne et L. Paul Henry.* Revue Politique et Parlementaire. 10 Octobre, 1912.

Socialism. Marxism versus Socialism. VII. *V. G. Simkhovitch.* Political Science Quarterly. Dec., 1912.

Sovereignty. The legal status of sovereignty. *W. W. Lucas.* The Juridical Review. Oct., 1912.

State Ownership. Some problems of public ownership. *Walter S. Allen.* North American Rev. Jan., 1913.

State Trading. The trading departments of the state. *Godfrey P. Collins.* Contemporary Rev. Oct., 1912.

Trust Regulation. Trust regulation. 1. *Albert Fink.* North American Rev. Jan., 1913.

Woman and Government. Woman and the state. *Anna Garlin Spencer.* Forum. Oct., 1912.

Women and Government. Women and local government in the United Kingdom. *H. Marie Dermitt.* National Municipal Review. Jan., 1913.

Woman's Suffrage. Operation of woman's suffrage in Pacific coast cities. *Mrs. Charles Farwell Edson.* National Municipal Review. Oct., 1912.

Workmen's Insurance. Das britische Arbeiterversicherungsgesetz. *H. Fehlinger.* Zeitschrift für die Gesamte Staatswissenschaft. Jahrgang, 1912.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED